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ABSTRACT

The guide is designed to help regular education teachers understand P.L. 94-142, The Education for All Handicapped Children Act. Information is organized around three major topic areas: (1) the background and major provisions of the law and regulations (including least restrictive environment, evaluation/placement, individualized education programs (IEPs), and funding); (2) effects of the law on the classroom teacher (answers to commonly asked questions about such aspects as IEPs, parent contact, architectural barriers, and class size); and (3) activities to help classroom teachers prepare to implement the law (gaining a better understanding of handicapped students, becoming aware of parents' and other professionals roles under the law, and preparing nonhandicapped students for mainstreaming). Among appendixes are highlights of the regulations. (CL)

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Third Printing

This guide, intended to help clarify P.L. 94-142 and its implementing regulations, has been designed for regular classroom teachers who have had little experience in working with special education students but who may soon have one or more of these children in their classes or school.

The purposes of this guide are to:

- outline and summarize those provisions of P.L. 94-142 which are of most concern to the classroom teacher;
- address some of the questions regarding P.L. 94-142 that have been asked by classroom teachers;
- increase teachers' sensitivity to the needs of handicapped students;
- facilitate a team approach to the development of Individualized Education Programs (IEPs);
- help teachers and students see handicapped children as having personal needs and aspirations similar to their own;
- provide highlights of the regulations implementing P.L. 94-142 pertinent to teachers in a ready-reference format; and
- provide sources of further information on P.L. 94-142 as it relates to the classroom teacher, mainstreaming, classroom activities and organization, and parent/teacher relations.

The guide is written to clarify the federal regulations. State and local education agencies (School Districts) have additional guidelines relating to the implementation of P.L. 94-142. (See p.5 for sources of these guidelines.)

INTRODUCTION

INSTRUCTIONS: Carefully read each of the following ten statements and then indicate whether or not you believe the item to be true by circling either "True" or "False."

TRUE-FALSE TEST
FOR TEACHERS
REGARDING
PUBLIC LAW 94-142

1. P.L. 94-142 regulations make provision for free appropriate education to all handicapped youth who are in need of special education.	TRUE	FALSE
2. P.L. 94-142 regulations require each handicapped child to be educated with non-handicapped children.	TRUE	FALSE
3. P.L. 94-142 regulations stipulate that an Individualized Education Program (IEP) must be in effect before special education and related services can be provided to a child.	TRUE	FALSE
4. P.L. 94-142 regulations state that a child's Individualized Education Program (IEP) must encompass all academic areas.	TRUE	FALSE
5. P.L. 94-142 regulations provide a standard method for writing Individualized Education Programs (IEPs) that must be met by each State.	TRUE	FALSE
6. P.L. 94-142 regulations stipulate that if parents, after being duly notified, choose not to participate in the development of their child's Individualized Education Program (IEP), a School District can proceed without their presence.	TRUE	FALSE
7. P.L. 94-142 regulations require States to provide professional and support personnel with inservice training in special education.	TRUE	FALSE
8. P.L. 94-142 regulations state that teachers will not be held accountable if a child does not reach his/her annual goals and objectives.	TRUE	FALSE
9. P.L. 94-142 regulations allow any party dissatisfied with the results of a due process hearing with which they were connected to make an appeal.	TRUE	FALSE
10. Under P.L. 94-142 regulations, both States and School Districts are entitled to federal funds based, in part, on a formula concerned with the number of children between the ages of 3 and 21 who actually receive special education and related services.	TRUE	FALSE

KEY: (1) 10 (1) 9 (1) 8 (1) 7 (1) 6 (1) 5 (F) 4 (F) 3 (T) 2 (F) 1 (T)

INTRODUCTION

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Public Law 94-142: Its Background and Purpose

Public Law 94-142 is a federal law passed by the 94th Congress as its 142nd piece of legislation. Signed into law on November 29, 1975, it is also known as the Education for All Handicapped Children Act of 1975. This law amends the Education for the Handicapped Act (EHA), Part B, a section regarding State grants in the education of the handicapped. Essentially, P.L. 94-142 is a "funding bill" designed to assist the States and, as such, may be implemented differently in each State. P.L. 94-142 is based on a number of Congressional findings, or understandings:

- There are more than eight million handicapped children in the U.S. today;
- The special educational needs of such children are not being fully met;
- More than half of the handicapped children in the U.S. do not receive appropriate educational services;
- One million of the handicapped children in the U.S. are excluded entirely from the public school system and will not go through the education process with their peers;
- There are many handicapped children participating in regular school programs whose handicaps are undetected;
- Because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;
- Developments in the training of teachers and in diagnostic and instructional procedures have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education;
- State and local education agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate; and

- It is in the national interest that the federal government assist State and local efforts to provide programs to meet the education needs of handicapped children in order to assure equal protection under law.

Public Law 94-142 addresses itself specifically to these concerns and defines handicapped children as: mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or having specific learning disabilities. The purpose of P.L. 94-142 is:

- to assure that all handicapped children have available to them free appropriate public education,
- to assure that the rights of handicapped children and their parents are protected,
- to provide financial assistance to States and localities for the education of all handicapped children, and
- to assess and assure the effectiveness of efforts to educate handicapped children.

P.L. 94-142 is complemented by Section 504 of the Rehabilitation Act of 1973. Just as P.L. 94-142 addresses itself to the educational needs of handicapped individuals, Section 504 deals with the physical accessibility of buildings and public programs to the handicapped. Section 504 requires institutions to effect architectural changes that would afford handicapped individuals the same accessibility to public programs as non-handicapped individuals. Both Section 504 and the subsequent enactment of P.L. 94-142 work toward effectively integrating handicapped individuals into the mainstream of American life.

However, these laws are by no means a magic wand. Even though both are presently being implemented and progress is being made, the majority of handicapped individuals are still excluded from many facets of American society.

SECTION ONE:

WHAT IS P.L. 94-142? WHAT ARE THE REGULATIONS FOR ITS IMPLEMENTATION?



The Regulations for Implementing P.L. 94-142: Major Provisions

Realizing that P.L. 94-142 would have a powerful impact on the education of handicapped youth nationwide, the U.S. Office of Education (USOE) took steps to insure that the regulations for implementing the law would be the result of public input. After more than a year of extensive public participation, the regulations were completed and publicized in the Federal Register, August 23, 1977, pages 42464-42518 (45 CFR Part 121a). Additional regulations related to the evaluation of learning disabilities were published in the Federal Register, December 29, 1977, pages 65082-65085.

These regulations specify the methods that States and local education agencies (School Districts*) must use in implementing the law if they are to receive federal funds under P.L. 94-142. The scope of the regulations encompasses all areas of the law, and although all areas are of some importance to the classroom teacher, there are seven provisions which are crucial to a teacher's understanding of the law. These provisions are:

1. Free Appropriate Public Education (FAPE)
2. Least Restrictive Environment (LRE)
3. Evaluation/Placement
4. Individualized Education Program (IEP)
5. Personnel Development
6. Procedural Safeguards (Due Process)
7. Funding

A summary of each of these provisions and its implications is given below. In the parentheses following each summary will be the page numbers referring to the regulations as found in Appendix A of this Guide.

Free Appropriate Public Education (FAPE). Simply stated, P.L. 94-142 makes provision for free appropriate education at all levels of schooling for all handicapped children who are in need of special education and related services. The law specifies a September 1, 1978, deadline for providing this service to handicapped children 3-18 years of age, and a September 1, 1980, deadline for handicapped children 3-21—provided these stipulations are not "inconsistent" with current State

*Hereafter, the term School District will be used in place of "local education agency" for they are, in most cases, synonymous. See A-30 for a comprehensive definition of "local education agencies."

laws or court orders. Free is defined as at public expense, under public supervision and direction, and without charge to parents. The appropriateness of a program for a given child is one that meets the requirements of that child's Individualized Education Program and is carried out in the Least Restrictive Environment. (See below)

By "related services" the law means transportation and those developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education. These services include speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. Also included are school health services, social work services in schools, and parent counseling and training. (A-29, A-34)

Least Restrictive Environment (LRE). The law states that each handicapped child must be educated with non-handicapped children to the maximum extent appropriate to that child.

The appropriateness of a learning environment for a handicapped child would be determined by the severity and effects of the handicapping condition as well as by the nature and quality of the learning environment. For example, placement of a hearing-impaired child might be dependent upon degree of hearing loss, language development (e.g., vocabulary, lip-reading ability, speech ability, and reading level), and by factors of personal and social development as well as the availability of supplementary media, special teachers, or other environmental factors which might be necessary in order to provide the special education and related services stipulated in the child's Individualized Education Program.

The law goes on to say that special classes, separate schooling, or the removal of handicapped children from the regular educational environment may occur only when the nature or severity of the particular handicap is such that education within a regular classroom "with the use of supplementary aids and services cannot be achieved satisfactorily." Placement in the school which the handicapped child would attend if not handicapped is preferred, but consideration is given to any harmful effect this placement would have on the handicapped child and the quality of services received.

In addition, the School District shall insure that a continuum of alternative placements is available, i.e., instruction in regular classes,

special classes, special schools, home instruction, and instruction in hospitals and institutions, as well as supplementary services, such as resource room or itinerant instruction to supplement regular class placement.

Needless to say, there will be some tension between the concept of LRE and determination of appropriateness, for there are those who believe "mainstream" placements in the regular classroom and school are appropriate for even severely handicapped children. A clearer definition of "appropriate" will occur in time. (A-46)

Evaluation/Placement. Before any evaluation is begun, written parental permission must be obtained after the parent has been fully informed of all information relevant to the evaluation activity. (See A-31 for content of notice.)

A full and individual evaluation of the handicapped child's educational needs must be made before the child is placed in a special education program. This evaluation must be made in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. This evaluation, which must not be racially or culturally discriminatory, provides the basis for determining eligibility and developing an educational program for that child.

The evaluation is performed by a multi-disciplinary team of professionals designated by the School District after parental permission has been granted. Though the examinations and procedures employed in this assessment are designated and regulated by each State and School District, the School District is responsible for the following conditions concerning examinations and evaluations:

- all tests and evaluations must be provided and administered in the native language of the child unless it is clearly not feasible to do so;
- tests and evaluations must be validated for the specific purpose for which they are used;
- tests must be administered by a trained professional in conformance with the instructions given by the producer of the test; and
- all tests must be selected and administered so as not to be racially or culturally discriminatory.

Also, no single procedure is to be used as the sole criterion for determining an appropriate education program.

Once this assessment information has been gathered and analyzed, the child's placement is determined by the IEP team. (See below.) (A-45).

Individualized Education Program (IEP). The IEP is one provision of the law which directly affects classroom instruction. It represents the most appropriate educational program for each exceptional child.

The law requires specific items to be included in all IEPs. The implementation methods and the detail with which these items are spelled out will vary from state to state; however, the following information must be included:

- present educational performance level of the child;
- the annual goals set for the child, including a statement on short term instructional objectives;
- a statement of the specific special education and related services to be provided to the child and the extent to which the child will be able to participate in a regular educational program;
- the projected initiation date and anticipated duration of special education services; and
- an evaluation schema (appropriate objective criteria, evaluation procedures and schedules for determining, at least on an annual basis, the achievement of short term instructional objectives).

The IEP, based on the child's evaluation, must be developed, reviewed, and revised by a team which includes a representative of the public agency, such as the school principal, the child's teacher, one or both of the child's parents, and the child, where appropriate. If the handicapped child has been evaluated for the first time, the IEP team must also include a member of the evaluation team or some other person, possibly the child's teacher or the principal, who is familiar with the evaluation procedures used and the interpretation of their results.

The law requires the scheduling of planning meetings at times mutually agreeable to both parent and teacher. Furthermore, the School District must insure that parents understand the proceedings of the meeting. (Such arrangements might include the use of an interpreter for deaf or non-English speaking parents.) These meetings may be scheduled at any time prior to the beginning of the school year (in most instances they will be scheduled in the Spring) for children continuing in a special education program.

A notice indicating who will be in attendance and the purpose, time, and location of the meeting must be sent to the parents in sufficient time to provide them the opportunity to attend. If the child's parents cannot be identified or if the child is a ward of the State, then the School District has the responsibility of selecting and assigning a surrogate parent to the child. This individual assumes parental responsibility for all matters relating to the identification, evaluation and educational placement of the child, and the provision of a free appropriate public education.

October 1, 1977, was the first deadline for the development of IEPs for each child. The beginning of every school year thereafter marks the due date for their revision. The development of IEPs for students new to the District or newly identified as eligible for special education programs must be completed within thirty days of their enrollment. The law stipulates that IEPs must be in effect before special education and related services are provided to a child. (A-46)

Personnel Development. Each State is required by law to establish procedures for needs assessment to determine the number of qualified personnel available in the State, to provide professional and support personnel with inservice training in special education based on the findings of the needs assessment, and to acquire and disseminate significant information to teachers and administrators of programs for the handicapped. (A-39)

Procedural Safeguards. Also referred to as the right to due process, this provision outlines the procedure to be followed when a parental or School District grievance exists. In the event of such a grievance regarding the appropriateness of the child's education, identifying information, evaluations, or educational placement, the law provides for an impartial due process hearing involving the parent and the School District to be conducted by someone not employed by or affiliated with the School District. A written notice must be given to the parents of a handicapped child a reasonable time before the School District either proposes or refuses to effect changes in any of the aforementioned areas. Either party involved in the hearing has a right to: be accompanied and advised by legal counsel and others; present evidence, confront, cross examine and compel attendance; and prohibit, under certain circumstances, the introduction of evidence. In addition, both parties are entitled to a written or recorded verbatim record of the hear-

ing and to written findings of fact and decisions. In some states this impartial hearing is taken directly to the State level.

A parent or School District dissatisfied with the results of this hearing may make an appeal to the State educational agency, who will then conduct an impartial review and make a decision. If this second appeal is not satisfactory to all involved, any party has the right to bring a civil action in a State or U.S. district court. If a lawsuit is initiated by a parent, it would probably be brought against the School District and not the classroom teacher. However, this does not preclude the parent from bringing a personal lawsuit. (A-42)

Funding. Under P.L. 94-142, both States and School Districts are entitled to federal funds based on a formula which multiplies the number of children between the ages of 3 and 21, who actually receive special education and related services, times an annually increasing percentage of the average funds spent, per pupil, in U.S. public elementary and secondary schools.

The annual increasing percentage is:

- 1978 - 5 percent
- 1979 - 10 percent
- 1980 - 20 percent
- 1981 - 30 percent
- 1982 - thereafter - 40 percent

During fiscal year 1978 the State and School Districts will both be entitled to 50 percent of funds distributed by the formula. In fiscal year 1979 and thereafter, 25 percent of the funds will be allocated to States and 75 percent to School Districts. School Districts can use these funds only to pay the "extra costs" of special education (i.e., costs above a computed minimum amount to be spent by the districts in providing special education and related services to handicapped children). It should be noted, however, that although the law provides a formula for the amount of funds to be allotted and the distribution of funds available, this does not necessarily mean that all needed funds will be forthcoming.

The following restrictions have been imposed for federal allocation purposes only:

- no more than 12 percent of the number of all children ages 5-17 in the State may be counted as handicapped;
- no handicapped children who are counted and already

funded under Section 121 of the Elementary and Secondary Act of 1965 (also referred to as Title I, funding for compensatory education) can be counted for allocation of funds.

In no way do these restrictions place a limitation on the number of children identified as handicapped by the State or School District for their ~~own~~ purposes, or on the federal mandate to provide all handicapped children with a free appropriate education.

To qualify for assistance in any fiscal year an active "child find" program must be instituted. Such a program must involve: the identification, location, and evaluation of all handicapped children, regardless of the severity of their handicap; and the determination of which children are or are not currently receiving needed special education and related services. The classroom teacher should be a key person in this process. It should be noted this program is not limited to young children, but seeks all handicapped individuals eligible for services under the law. (A-50)

Other Topics Covered by the Regulations

In addition to the seven provisions discussed, additional areas covered by the regulations include:

- the establishment of a full educational opportunity goal for all handicapped children ages birth through 21 (A-34)
- the annual count of handicapped children ages 3-21 who are receiving special education and related service for allocation purposes (due by April 1 of each year) (A-50)
- priorities in the use of funds under P.L. 94-142 (A-35)
- the proper use of funds under P.L. 94-142 (A-36)
- methods to guarantee public participation in the review of the State annual program plans, and on the State advisory panel (A-39)
- children placed in or referred to private schools (A-47)
- policies and procedures to protect the confidentiality of personally identifiable information and data (A-49)

Sources for Obtaining a Copy of P.L. 94-142 and Its Regulations

P.L. 94-142 will have an impact on American education nationwide. It is important that classroom teachers avail themselves of a copy of the law, the regulations, and both the State guidelines and local School District plans. Information for obtaining each of these docu-

ments is listed below. In addition, Appendix A of this guide contains highlights of the Implementing Regulations for P.L. 94-142; however, if you are concerned about the legality of a particular issue, refer to the Regulations.

Public Law 94-142, 94th Congress, S.6

November 29, 1975

An Act

Send \$.45 to: Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

The Federal Regulations for the Implementation of Part B of
the Education of the Handicapped Act
(also referred to as the Regulations Implementing P.L. 94-142)

Write to: Thomas B. Irvin, Policy Officer
Division of Assistance to States
Room 4926
Bureau of Education for the Handicapped
Donohoe Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202

State Guidelines

Contact your local School District Office or
State Department of Education. (There may be a small
charge for obtaining a personal copy of these guidelines.)

School District Plan

Contact your local School District Office

1. Q. Does this law mean that all handicapped children will be educated in regular classes?

2. Q. Does this law mean that I will have handicapped children in my classroom?

3. Q. Will existing special education programs be discontinued?

4. Q. How is "appropriateness" of public education determined?

5. Q. Does the IEP cover all areas of schooling for a child?

The following discussion is based on the questions classroom teachers most frequently ask regarding P.L. 94-142.

A. No. The intent of the law is to provide a regular classroom setting only to the extent that it is appropriate to the handicapped child. For some children, education in a special facility or a self-contained special education classroom may be the least restrictive environment appropriate.

A. Not necessarily. However, an increase in the number of handicapped children receiving regular instruction as a result of this law could mean the addition of a number of handicapped pupils to your class and/or school.

A. No. The implementation of P.L. 94-142 should not cause existing special education programs, including self-contained classes, to be discontinued. Rather, the law insures a basic right to education for all handicapped children nationwide which may include existing special education programs. Furthermore, the law could conceivably necessitate the creation of new special education programs, such as resource rooms or itinerant special education programs, as a means of meeting the needs of handicapped students.

A. "Appropriateness" refers to the unique requirements of the individual child. The process involved in determining appropriateness is made within each local School District and determinations are suited to each student based on his/her need. Before a handicapped child is found eligible for a special education program, a comprehensive assessment of all areas related to the child's suspected disability is made by a team of specialists as part of an appraisal process. This information, plus pertinent background data, is used collaboratively by a team composed of the teacher, the parent, a qualified representative of the School District (e.g., a special education professional), and the child, when appropriate, to determine placement in a least restrictive environment and to produce an Individualized Education Program (IEP) for each child. (See p. 3 for a discussion of this team and others who may comprise it.) The IEP represents the best (i.e., most appropriate) program for meeting the child's needs. (See discussion under question one of this Section.)

A. The IEP is a specially designed course of study for the handicapped child. However, this course of study is designed only with respect to those areas in which the child needs modification of the regular education program and, therefore, does not necessarily cover all areas of schooling. For example, a junior high school student might be confined to a wheelchair. This condition would affect the form and type of

SECTION TWO:

HOW WILL P.L. 94-142 AFFECT THE CLASSROOM TEACHER?



physical education the child would receive and, consequently, would be incorporated into the IEP. This same child, however, could conceivably perform without special aids or supports in a regular course of study. The IEP involves those parts of a student's curriculum which are altered from a regular program because of his/her need for special education.

6. Q. *I have never written an IEP before. What information should be included?*

A. Federal law specifies that this information must be included in all IEPs:

- present educational performance level of the child;
- the annual goals set for the child including a statement on short term instructional objectives;
- a statement of the specific special education and related services to be provided to the child and the extent to which the child will be able to participate in a regular educational program;
- projected initiation date and anticipated duration of special education services; and
- the appropriate objective criteria, evaluation procedures, and schedules for determining, at least on an annual basis, the achievement of short term instructional objectives.

7. Q. *Will the classroom teacher ever write a complete IEP by him/herself?*

A. You will be responsible for writing an IEP only if a student's handicap necessitates special education in your area of instruction. It is, therefore, unlikely that the writing of an IEP will be solely your responsibility.

8. Q. *How much involvement does the classroom teacher have in developing an IEP?*

A. Your level of involvement will vary. If you are part of the IEP team, your input will always be solicited in regard to handicapped children in your class since you will have valuable insight regarding the child's functioning. This input becomes crucial in situations where a student's handicap necessitates special education in your area of instruction. However, in some cases the child may be placed in your classroom after an IEP in which you have not been involved has been drawn up. You should be involved in the review and revision of this IEP.

9. Q. *Will programming for special education require more time of me?*

A. To the extent to which teachers do not currently consult with parents, do not participate in program planning, etc., more time will be required. Remember, however, it is likely that you will be developing an IEP for only those areas in which you will provide special education services. Thus the IEP would be viewed as part of a teacher's classroom preparation. In the future, this area may be addressed by local teacher organizations in labor/management negotiations.

10. Q. *Can I make referrals of students for testing?*

A. Yes. As a classroom teacher you are a primary source for child referrals. For the proper procedures for referring a child for evaluation, check with your immediate supervisor.

11. Q. *Which individuals are authorized to receive the evaluation results?*

A. You, any other school personnel involved with the formulation of the IEP, the child's parents, or any representatives authorized by the child's parents.

12. Q. *As a classroom teacher will I be involved in making placement decisions?*

A. This depends. You will participate in the placement decision to the extent that you were involved in reviewing the results of the child's evaluation or developing the IEP. In any case, if the child is placed in your classroom, you will take part in the review of the placement decision.

13. Q. *What if I disagree with the placement decision or IEP developed?*

A. Sometimes a teacher may disagree with parents or with the judgments of other school personnel. In such a case, the teacher should not compromise professional judgment. The question of due process on behalf of teachers may be a subject with which the local teacher organization will be of some assistance.

14. Q. *The law says that personally identifiable information regarding a child is to be held in strictest confidence. Is this also true for non-personally identifiable information regarding a child?*

A. The law does not address itself to this point specifically. In certain situations it is common for institutions to release certain kinds of raw data when written forms expressing need and intent are submitted by the requesting agency. Typically, in such cases existing written policies regarding the release of data are used as guidelines. While it is strongly advised that no information be released whenever there exists even a minimal possibility of data being identifiable, as a general rule you should check your State and local guidelines regarding issues of confidentiality.

15. Q. *If I have a handicapped child in my classroom, will more people want access to that child's records than to the records of my non-handicapped students?*

A. Yes. The handicapped child is likely to have more people involved in his/her total education program. Therefore, more people will want to look at the handicapped child's education records. Remember, however, that only those individuals authorized to receive education records have access to the child's records.

16. Q. *Must parents be notified and given an opportunity to attend the meeting in which their child's IEP is developed?*

A. Yes. It is mandatory that parents be informed and invited to be present for development of the IEP.

17. Q. *Who makes these contacts; What kind of contacts must be made?*

A. The School District is responsible for designating someone to make these contacts. Though it is not stipulated by law, in many instances the School District will delegate this responsibility to the teacher where this assignment would not be against local teacher organization agreements. Parents must be notified as to the purpose, time, and location of the meeting. This notice must be given early enough for them to be able to make arrangements to attend.

18. Q. *What if parents want to participate but cannot attend the meeting?*

A. If they cannot attend the meeting, their involvement should be assured through other means, such as conference telephone calls or home visits.

19. Q. *What if parents will not participate in developing an IEP?*

A. If parents choose not to participate in developing of an IEP, a general meeting must take place in their absence. In such cases the School District must have records of attempts to arrange a mutually agreed on time and place with the parent. These records should include:

- actual and attempted telephone calls and their results,
- copies of correspondence sent and responses received, and
- visits made and their results.

20. Q. *Does the classroom teacher run a greater risk of being sued as a result of having a handicapped child in the class?*

A. All teachers are currently working in a situation where they could be sued for one thing or another. However, teaching a handicapped student will not place more of a legal burden on you in this regard. Even if the presence of a handicapped child in your classroom should increase the risk of a legal suit, the level of a teacher's liability does not increase.

Furthermore, bear in mind that the handicapped child you teach is not a helpless child, just an individual in need of different types of support measures. Your sensitivity might have to be heightened and your level of effort and responsibility might increase also; but the task should not be viewed as a danger for you. The handicapped child is a student above all else. For example, your liability for medication would be no different than for any other students. The same holds true with regard to children in transit from one class to another or with accidents that might occur on school grounds.

21. Q. *What if the child does not achieve the projected annual goals and objectives? What is my liability?*

A. Neither the teacher nor the School District are to be held accountable for certifying a projected growth level if it is not attained by the child. The annual goals and objectives stated in an IEP are not legally binding. The IEP team must make "good faith efforts" to assist the child to attain the annual goals and objectives stated in the IEP; however, the attainment of these goals and objectives is not mandatory.

However, schools are being sued at the current time because children do not achieve as expected through attendance. This is a situation that will exist until the courts settle this matter. Therefore, in terms of the handicapped child, no special liability has been added beyond fundamental issues being addressed right now with general education. Your local teacher organization should be able to offer legal assistance on such matters.

22. Q. *Is the classroom teacher responsible for finding and providing the special support services and aids necessary for effectively implementing the IEP?*

A. Every teacher has a professional responsibility for providing all sorts of assists to children. While it is possible that you may be designated to provide certain services which are already in your repertoire of professional skills, in most instances you will not be called on to provide special services.

Moreover, as the teacher of a handicapped individual, you can insist on the proper support services for that child. The Law states that, once it is determined that a child is in need of particular services, it is the obligation of the School District to designate an individual to provide those services. It is the responsibility of the teacher to notify the School District in some official form if necessary aids are not available. (Although this latter more formal notification is rarely done now, it might be that teachers will have to increasingly go on record in this area in the future.) For your own protection, you should keep an updated record of these requests for assistance.

23. Q. Will the law also affect the handicapped child's participation in activities?

A. Yes. In regard to extracurricular activities the law makes specific mention of providing these "non-academic services in as integrated a setting as possible." Included in these activities are athletics, recreational activities, special interest groups, clubs, and student employment. The intent is to provide extracurricular activities as part of a handicapped youth's education and to encourage handicapped youth to participate in these activities. Consequently, as with regular classroom instruction, extracurricular activities is an area in which there may be an increase in the number of handicapped students.

24. Q. How will the architecture of the school be adjusted to make the school accessible to handicapped children?

A. This issue should be raised at the time of placement or as soon as possible thereafter. Under Section 504 of the Rehabilitation of the Handicapped Act, institutions are required to make the necessary changes to accommodate handicapped individuals. Speak to your school administration to make temporary adjustments until permanent changes can be made. For example, your class might be moved to the first floor if you teach a child who uses a wheelchair in a school without ramps. The School District is obligated by law to provide permanent accommodations in the future for all handicapped students.

25. Q. I already have handicapped children in my class and staff development hasn't even been mentioned. What do I do?

A. Speak to your special education supervisor. Indicate that you will be limited in ability to meet the needs of the handicapped children assigned to your classroom until staff development is given. Staff development is an obligation by law that the State and School District have to you and the children you teach. Each state is required to submit a personnel development plan to the federal government, and, furthermore, this plan is a public document available upon request. Your local teacher organization might be of assistance to you in obtaining needed personnel development; consult them regarding your needs. The law suggests, and many teacher organizations advocate, providing incentives (e.g., salary increase, graduate credit) for teachers who participate in personnel development. Inquire about this also.

In addition to availing yourself of the personnel development to be provided by law, teachers should also take part in planning this development. Through participation in this planning you help insure training that is most pertinent to your needs.

26. Q. Will I have to start learning special skills like braille or sign language?

A. In general, the answer is no. However, as the result of a due process hearing, the hearing officer may require the School District to provide a teacher or teachers with special skills. To meet this requirement, the School District might ask you to acquire a special skill. In such a case, all services must be found, paid for, and/or provided by the State and School District. In fulfilling this responsibility the special skills necessary for various education programs will be provided by individuals already trained in those special areas. However, should you be asked to undertake this responsibility, your local teacher organization might be able to advise you in this respect. Teachers should not be asked to pay for these requirements themselves.

27. Q. What should I do with a handicapped child who just can't cope in the regular classroom setting?

A. If a child is having difficulty in your classroom, the child's program should be questioned. You may need suggestions and help from a special education resource teacher or master teacher concerning different strategies that can be tried with the child. Such changes should be part of an IEP review. Only after all resources have been exhausted should the actual placement be reviewed.

28. Q. *How do I manage if my class size is too large as a result of instructing an increasing number of handicapped students?*

A. Some School Districts have provisions for class size in the collective bargaining agreement. Check with your local teacher organization to see if such an agreement exists for your School District. A few School Districts employ a weighting system in which the number of regular students in a classroom is reduced in proportion to the number of handicapped students in that class. Check to see if this system is being used in your area. Teachers employed in areas where neither of these systems exist should address themselves to their supervisors regarding class size.

Q. How can I better understand handicapped students?

ACTIVITY A-1

Objective:

Materials:

Procedure:

A. You can better understand handicapped students by role-playing a handicap, reading about the lives of handicapped individuals, and visiting a special education class.

Role Play: A Handicap

To experience a physical handicap

Special equipment (designated below) to produce a particular handicap

Create a handicap in yourself by:

- fully or partially covering the lenses of a pair of glasses
- using earplugs which totally or partially block your hearing
- putting your writing arm in a sling
- borrowing a school wheelchair and using it to pursue your day's activities
- reading only materials written at the second grade level
- combining any two of the above

Sit in a colleague's class which has a curriculum similar to your own. Note all areas which adversely influence your understanding of the lesson. Give attention to:

- the physical layout of the classroom, your position in it, barriers/obstacles
- methods used for giving directions to students
- activities required in class and your ability to do them
- student distractions and outside influences

Experience one full day as a person with a handicap. Try not to limit your normal activities but note those you had to alter or eliminate. Keep a journal of these experiences.

ACTIVITY A-2

Objective:

Materials:

Procedure:

Reading: Lives of Handicapped Individuals

To become familiar with the experiences common to handicapped individuals in today's society

One or more books from the bibliography below

Listed below are some informative stories describing various handicapped individuals and those who have worked with them. Most of these books can be found in local bookstores and many are available in paperback form. A short abstract is included for each.

Read the abstracts of each book and choose one you would like to read in depth. For greater understanding, choose a book from each category.

SECTION THREE:

**WHAT ACTIVITIES
WOULD HELP
THE CLASSROOM
TEACHER
PREPARE TO
IMPLEMENT
P.L. 94-142?**



On the Personal Experiences of a Handicapped Person and His/Her Family

Axline, Virginia M. Dibs: In Search of Self. Boston: Houghton Mifflin Company, 1964.

A case study of a young boy with emotional problems and how he is helped through psychotherapy.

Bowe, Frank, and Martin Sternberg. I'm Deaf Too: Twelve Deaf Americans. Silver Spring, Md.: National Association of the Deaf, 1973.

Twelve short biographical sketches of prominent deaf people in America.

Clarke, Louise. Can't Read, Can't Write, Can't Talk Too Good Either: How To Recognize and Overcome Dyslexia in Your Child. New York: Penguin Books, 1977.

A personal account of the struggles of a bright determined child and his family to understand and cope with his severe language disability. This book alerts parents, teachers, and professionals to the problems of dyslexia and its impact on the development of children. This theme is stressed as narrative traces the accounts of one child from infancy to eighteen years and the communication and educational barriers he faced.

Greenberg, Joanne. In This Sign. New York: Holt, Rinehart and Winston, 1971.

An interesting, fictional work about the life of a deaf girl done by the author of the book I Never Promised You A Rose Garden.

Melton, David. When Children Need Help. New York: Thomas Y. Crowell Company, 1972.

A personal account by the father of a brain-injured child who explores the situations and attitudes he encounters in raising, and seeking medical help for, his child. In easily readable form, it covers the problems of parents with children who have various handicaps and how they search for help and knowledge. It voices the feelings of many parents who are baffled by professional practices, the attitudes of friends, and the stigmas on their children; and it tells how to get help.

Murray, Dorothy Garst. This Is Stevie's Story. New York: Abingdon Press, 1976.

The story of the identification and development of a mentally retarded boy and how his parents work to accept the circumstances and deal with their attitudes toward mental retardation. A personal narrative of the boy's physical, mental, and social development, it shows the attitudes of society toward the mentally retarded and the additional problems parents must face in confronting these attitudes.

Rubin, Theodore Isaac. Lisa and David/Jordi. New York: Ballantine Books, 1962.

Stories of children with various handicapping conditions. The world of the mentally retarded and the emotionally disturbed child is illustrated as well as the crises their families experience.

Ulrich, Sharon. Elizabeth. Ann Arbor, Mich.: The University of Michigan Press, 1972.

The story of the development of a blind child from birth to school age including the numerous questions her parents sought to answer, such as why normal development is so much harder for a blind child to achieve? The book explains the discoveries these parents make from their years of inquiry and presents views from both the parental and professional side of this physical handicap, giving practical means of enhancing early development in blind children.

On Educators' Experiences in Teaching Handicapped Students

Cardwell, Alice M. Out of the Silence: A Book for the Families and Friends of Hearing Handicapped Children. Sydney, Australia: Alella Books, 1970.

A book written to help educate parents, friends, and neighbors to the needs of deaf and hard of hearing children. Written from the teacher's point of view, it presents ways of educating parents and developing early training programs at home for hearing-impaired children. This book also covers autistic and multi-handicapped children who have lost the ability to hear. It examines the problems of any child with a hearing loss and shows ways others can help.

Cohen, Martin E. Bets Wishes, Doc. New York: Arthur Fields Books, Inc., 1974.

The experiences of various types of learning disabled students and their struggles to return to the regular classroom as narrated by the director of a school for learning disabled students. The procedures used by a specialized staff in working through a student's problems are shown. This book provides a good understanding of the learning disabled and their academic dilemmas.

Craig, Eleanor. P.S. Your Not Listening. New York: Richard W. Baron, 1972.

The story of a group of emotionally disturbed children and the teacher who accepted the assignment of this "unteachable" group. The teacher recounts her bewilderment and frustrations such as "How do you teach long division to a child who believes that the banana in his lunchbox is alive and trying to escape?" The true account of one teacher's experience with five very lost children.

Herndon, James. The Way It Spozed To Be. New York: Simon and Schuster, 1968.

An elementary classroom of "culturally-deprived" students "teach" their instructor how to survive in a big city school system. The problems of labels and stereotypes are explored.

Levy, Harold B. Square Pegs, Round Holes: The Learning-Disabled Child in the Classroom and at Home. Boston: Little Brown and Company, 1973.

The narrative of the experiences of one child with minimal brain dysfunction including the difficulties his parents experience at home before turning to professional help and the professional channels the parents investigate in trying to determine their child's problem and the final diagnosis. Written by a physician, it explains the reasons for this child's behavior and how to work effectively with this child at home and at school. The book stresses the need for treating the child in ways that are educationally effective but otherwise as normal as possible.

Weber, Kenneth. Yes, They Can—A Practical Guide for Teaching the Adolescent Slow Learner. Toronto, Canada: Methuen Publications, 1974.

Divided into two sections: Part A explains in narrative form the characteristics of adolescent slow learners, the failure cycles they develop, their self-concepts, and present methods of teaching them; Part B is written specifically for the teacher to use in planning practical classroom activities for these students. It is an informative guide written in simple terminology.

ACTIVITY A-3

Personal Experience: Working with Handicapped Students

Objective:

To gain some familiarity with handicapped students and their special instructional needs

Materials:

None

Procedure:

Request a professional visitation day to work as a paraprofessional in a special education class. If you do not know a special education teacher, ask the special education supervisor to provide you with the appropriate contacts and background information for your visit.

Q. *How can I become aware of the role of parents and professionals under P.L. 94-142?*

A. You can become aware of the role of parents and professionals under P.L. 94-142 by becoming more familiar with IEP guidelines and forms, role playing, planning an in-service program and support services.

ACTIVITY B-1

Reading: IEP Guidelines and Forms

Objective:

To become familiar with the guidelines and forms for Individualized Education Programs

Materials:

A copy of your State guidelines on P.L. 94-142
A copy of your State/School District IEP form

Procedure: Request a copy of your State's guidelines on P.L. 94-142 and an IEP form from your principal, supervisor, or a special education teacher.

As you read the guidelines, refer to the IEP form. Make note of any areas of concern or questions. Request time to meet with your principal or supervisor to review your questions.

ACTIVITY B-2

Review/Analysis: IEP Requirements

Objective: To become familiar with State/School District IEP forms

Materials: A copy of your State's guidelines on writing IEPs
A copy of your State/School District IEP form

Procedure: Pretend you have been given only this information on a new student: name/age/School District/present level of performance. Review your IEP forms and make a list of all additional information you would be required to have in order to complete the IEP. Beside each item on your list, write the source(s) (e.g., personnel, materials, curricula) you would utilize to complete that item.

ACTIVITY B-3

Role Play: Principal's Position

Objective: To increase sensitivity to the role of the principal in assuring compliance with P.L. 94-142

Materials: None

Participants: Two or three

Procedure: Situation: A parent calls the principal, without previously contacting the teacher, to complain and ask for intervention. The teacher is grouping the parent's child with a "handicapped kid" for lessons. The child has not complained about this situation.

Role Play:

1. Enact the conversation between the principal and parent in which the principal expresses understanding of the parent's concerns and the need for a meeting with the teacher to clarify the realities of the situation.

2. Enact the meeting of the principal, parent, and teacher, with the principal as moderator. Begin with the parent's statement of complaint. Have the principal explain the reasons for the placement, then call upon the teacher to explain how the students function with the current grouping. Give the parent opportunities to raise specific objections, then have these answered.

ACTIVITY B-4

Outline: Inservice Training

- Objective:** To increase sensitivity to the role of the principal in assuring compliance with staff development requirements of P.L. 94-142
- Materials:** A copy of your State guidelines on P.L. 94-142
- Procedure:** As a school principal, you are aware that regular classroom teachers could have handicapped students in their classes in the future. Knowing that your staff desires to understand more concerning their role, outline the content of a one-day workshop on P.L. 94-142. Refer to the State guidelines to find areas where teachers may have questions. List the areas where teachers need more information. For example:
- How to write short-term objectives
 - Steps for referring a student for evaluation

ACTIVITY B-5

Simulation: Identifying and Referring a Student

- Objective:** To identify procedures for referring a student for special services
- Materials:** A copy of your State's regulations/guidelines on P.L. 94-142
- Procedures:** You have a student in your regular class who is having difficulty learning, is easily frustrated, and frequently creates discipline problems. You are concerned and feel this student needs special assistance.
- How do you go about referring this student for evaluation to determine if special services are needed?
- Briefly list the people you would contact and why.
 - Outline the background data you must provide to support your recommendation.

ACTIVITY B-6**Role Play: Scheduling Conflict**

Objective: To develop awareness of teaching demands and scheduling requirements

Materials: None

Participants: Two

Procedure: Situation: A classroom teacher reviews the weekly mathematics lessons every Friday afternoon. Part of this review includes a mathematics contest with awards. A handicapped student, who excels in mathematics, has won regularly and looks forward to these weekly reviews.

This student has just been scheduled for speech therapy on Friday afternoons. The speech therapist is itinerant and only available at this time.

Role Play: Enact the scene in which the student presents the classroom teacher with the problem of the schedule conflict. Have the student explain why he/she wants to be in the mathematics contest and why he/she has to go to the speech therapist. Have the teacher resolve the situation. (Remember: the speech therapist's schedule cannot be altered.)

ACTIVITY B-7**Study: Support Services for Handicapped Students**

Objective: To identify the support services and/or support aids needed by handicapped students for inclusion in the regular classroom and to identify the ways in which a teacher might modify classroom instruction to meet the needs of handicapped students.

Materials: A copy of your State regulations or guidelines on P.L. 94-142
A listing of local special education services and aids

Procedures: Read your State's regulations/guidelines for providing support services and aids to handicapped students in the regular classroom. Check your State's definitions and listing of support services or aids. If additional definitions or lists are needed, consult your supervisor or principal.

Using this information on support services and aids, list ones you would consider essential in instructing the following students in your course. Then list the ways in which you might modify your own classroom instruction to meet the needs of each type of student.

A Student With:	Support Services	Support Aids	Instructional Modifications
1. partial hearing with aid 2. full use of arms and hands but confined to a wheelchair 3. a very low reading level 4. partial sight who can't read texts 5. severe speech impediment			

Q. How can I prepare my students for mainstreaming?

ACTIVITY C-1

Objective:

Materials:

Procedure:

A. You can prepare your students for mainstreaming by discussing individual differences, showing a film about a handicap, having students prepare research reports on handicapped persons or role play their reactions to handicapped persons, and inviting a handicapped speaker.

Discussion: Individual Differences or Handicaps?

To help students examine their perceptions about handicapped individuals

Chalkboard and chalk or large chart and felt pen

Write the word "handicapped" on the chalkboard or chart. Ask your students to define "handicapped." List the words that the students suggest. Ask the students why they associate each word with the term "handicapped." List their reasons on the chalkboard or chart.

List the following examples of physical or mental conditions on the chalkboard.

Conditions

1. nearsightedness
2. color-blindness
3. facial birthmark
4. flat feet

Areas of Possible Difficulty

- (becoming a pilot, driving, watching movies/T.V.)
 (choosing clothes, learning colors, reading maps)
 (becoming a photographer's model)
 (walking, participating in sports, choosing stylish shoes)

- | | |
|--------------------|--|
| 5. left-handedness | (sitting at some desks, using some scissors, tools, or machines, writing with ink, eating in close quarters) |
| 6. stuttering | (talking, getting jobs, using the telephone, feeling confident with strangers) |
| 7. large body | (buying clothes, sitting in small chairs and on buses) |

Discuss with your students how or when each condition would be a handicap. Elicit the Areas of Possible Difficulty from the students, then write them on the board. (Possible responses are listed in parentheses).

Have the students expand this list of conditions. Allow time for students to relate examples of personal experiences with a condition and how it affected them. Discuss the uniqueness of all persons and how the people around you, or the situation, determines whether or not a condition is a handicap. Ask the question "Is Wilt Chamberlain handicapped? If so, when and in what ways?" Elicit the idea that a handicap in some situations may be an asset in others.

Special Note: Gear this discussion to the age and maturity of the students.

ACTIVITY C-2

Film: Learning about Handicaps

Objective: To help students become familiar with handicaps and their influence on people's lives, to reduce stereotypes and myths about handicapped individuals.

Materials: Film projector, screen
One film from list

Procedure: Present to your class one or more of the following nationally available films about people with handicaps. The age group suggested for each film is given, but you will want to preview each film to judge its appropriateness for your students. A follow-up discussion is suggested for your students after seeing the film. Check your school and local media department for the availability of these and other films.

Films for Students

Being—21 minutes/color/1973/A.C.I. Films Inc.

A young man, paralyzed in both legs, confuses friendship for pity. (intermediate/secondary)

Child of the Universe—30 minutes/color/1973/Robin Miller.

The fears and suspicions of the retarded. A commentary by parents of the mentally retarded and retarded adults in society. (intermediate/secondary)

The Curb Between Us—15 minutes/color/1975/Arthur Barr Productions.

A disabled adolescent as he rebuilds his life after an accident. (intermediate/secondary)

A Day in the Life of Bonnie Consolo—16½ minutes/color/1975/Arthur Barr Productions.

How a woman without arms manages her life, showing her ingenious self-sufficiency. (secondary)

Even Love Is Not Enough—color/1975/Parents' Magazine Films, Inc.

A collection of four sets of filmstrips: Behavioral and Emotional Disabilities, Physical Disabilities, Intellectual Disabilities, and Educational and Language Disabilities. Each set contains five full-color filmstrips, either an Lp record or cassettes, script books, and a discussion guide.

The Exceptional Child—51 minutes/black and white/1967/BBC—Time-Life Films.

Bright to less gifted special students and how they cope in school. (secondary)

He Comes From Another Room—28 minutes/color/1973/National Audiovisual Center.

The transition of two emotionally disturbed students to regular classes in the third grade. (secondary)

The Invisible Handicap—15 minutes/color/1976/Carousel Films.

A "60 Minute" program on problems of learning disabilities. (intermediate/secondary)

Leo Beuerman—13 minutes/color/1969/Centron.

How a man, physically handicapped since birth, overcame adversity and his philosophy of life. (intermediate/secondary)

Like Other People—37 minutes/color/1973/Perennial Education.

A narration of the social, emotional, and sexual needs of physically handicapped young people. (secondary)

A Matter of Inconvenience—10 minutes/color/1974/Stanfield House

How blind and amputee individuals refuse to accept stereotypes. Illustrates the difference between a disability and a handicap. (intermediate/secondary)

Mental Retardation: The Hopeless—25 minutes/color/1973/Oxford Films.

Rebuts traditional prejudices and misconceptions about the mentally retarded. (intermediate/secondary)

Mimi—12 minutes/black and white/1972/Billy Budd Films.

A young paralyzed woman's account of her life and relating to others. (intermediate/secondary)

Not Without Sight—19 minutes/color/1973/American Foundation for the Blind.

Defines major types of visual impairments and their causes, depicting the world through the eyes of several types. (intermediate/secondary)

The Person Within—29 minutes/color/1968/Pictorial Productions.

The training that enables a deaf teenager to succeed in a regular high school program. (secondary)

Readin' and Writin' Ain't Everything—26 minutes/color/1975/Stanfield House.

The personal accounts of young mentally retarded adults and three families with mentally retarded children. It emphasizes the need for acceptance and understanding. (secondary)

Sit Down, Shut Up, or Get Out—58 minutes/color/1971/Films, Inc.

A bright kid with behavior problems reacts with his parents/teacher/peers. (intermediate/secondary)

Some of Our Schoolmates are Blind—20 minutes/color/1960/Hollywood Film Enterprises.

A public elementary school that includes blind students. (intermediate/secondary)

They Call Me Names—22 minutes/color/1972/BFA Educational Media.

How mentally deficient young people perceive the world in which they are told they are "different." (intermediate/secondary)

Triumph of Christy Brown—60 minutes/black and white/1971/Indiana University.

An Irish author and painter and the cerebral palsy handicaps he overcame. (intermediate/secondary)

ACTIVITY C-3

Books: Learning about Handicaps

- Objective:** To help students become familiar with handicaps and their influence on people's lives, to reduce stereotypes and myths about handicapped individuals
- Materials:** Copies of selected titles from the following list of books on handicapping conditions and handicapped individuals
- Procedure:** Present to your class the following list of books or selections from this list that you feel would be appropriate. Students may use this list for their own selective reading, for reports, and/or for background information for a future class discussion. This list and its annotations are adapted from Coping: Books About Young People Surviving Special Problems by Mary DeWitt Billings, published by the Office of Education, U.S. Department of Health, Education, and Welfare, available from the Superintendent

of Documents, U.S. Government Printing Office, Washington, D.C., 20402. (Stock No. 017-080-01783-1) The total list includes 92 titles for children from preschool to young adult levels dealing with mental health, physical handicaps, and family life in the 20th century.

Carlson, Dale. Triple Boy. New York: Atheneum, 1977. 172p.

The recovery of a young boy with a split personality through the aid of understanding friends, professional help, and his own strong will. (secondary)

Corcoran, Barbara. Axe-Time/Sword-Time. New York: Atheneum, 1976. 201p.

A young girl's realization that, despite her reading disability, she has important contributions to make to the war effort. Set during World War II. (secondary)

Ewen, Robert B. Getting It Together: A Guide to Modern Psychological Analysis. New York: Watta, 1976. 127p.

The most common neuroses, their causes, analyses, and cures. A self-help guide. (secondary)

Gill, Derek L. T. Tom Sullivan's Adventures in Darkness. New York: McKay, 1976. 106p.

The story of a blind boy, the barriers he breaks and the victories he wins. (elementary/secondary)

MacCracken, Mary. Lovey: A Very Special Child. Philadelphia: Lippincott, 1976. 189p.

The true story of an 8-year-old emotionally disturbed girl's struggle toward a normal life. (secondary)

Parker, Richard. He Is Your Brother. Nashville: Nelson, 1974. 98p.

The struggle of an autistic boy and his family's effort to help him. (upper elementary)

Rodowsky, Colby F. What About Me? New York: Watts, 1976. 136p.

The story of a young girl's struggle between her love for her mongoloid brother and the feelings of resentment that he provokes in her and the profound effect of his death. (secondary)

Spence, Eleanor. The Devil Hole. New York: Lothrop, 1976. 215p.

An Australian family comes to grips with the fact that the youngest boy in their family is autistic. (secondary)

Windsor, Patricia. Mad Martin. New York: Harper, 1976. 119p.

A boy, emotionally handicapped by living in isolation for many years, learns friendship, trust, love, and hate. (elementary)

Wolf, Bernard. Anna's Silent World. Philadelphia: Lippincott, 1977. 48p.

A photo essay showing a young girl, born deaf, learning to function normally without normal hearing and the people and machines that help her. (elementary)

Zindel, Paul. Pardon Me, You're Stepping on My Eyeball! New York: Harper, 1976. 262p.

Two emotionally disturbed young people meet during group therapy and end up helping each other in spite of themselves. (secondary)

ACTIVITY C-4

Research Report: Handicapped Persons

Objective: To help students become aware of the contributions made by individuals who were handicapped.

Materials: Chalkboard and chalk, chart paper and felt pens, or ditto paper and pencils for students.

Procedures: On a chalkboard, chart, or ditto present the following list of handicapped persons both living and dead. (Do not list the handicap.) Tell the students that each of these persons has a handicap. Ask each student to select one person and research his/her life for a report (either oral or written). Each research report should include:

- The nature of the handicap and how it occurred
- How the handicap affected the person's education, home life, friends, job
- What problems were encountered as a result of the handicap
- What are/were the accomplishments, contributions, goals, and/or future hopes of that person

Suggested Persons for Research Reports

Artists

Ludwig van Beethoven, deaf
Elizabeth Barrett Browning, spinal
injuries (bedridden)
Ray Charles, blind
Jose Feliciano, blind

Aldous Huxley, blind
James Stacey, amputee (arm/leg)
Stevie Wonder, blind
Al Capp, amputee (leg)

Athletes

Dave Bing, blind (one eye)
Tom Dempsey, birth defect (stump
foot and arm)

Carlos May, minus a thumb
Roy Campanella, paralyzed (neck down)
Wilma Rudolph, childhood polio

Politicians

Winston Churchill, speech impediment
Robert Dole, withered arm
Daniel Inouye, amputee (arm)
Franklin D. Roosevelt, paralyzed (both legs)
Morris Udall, blind (one eye)
George Wallace, paralyzed (waist down)

Inventors/Scientists

Lewis Braille, blind
Thomas Edison, deaf

Other

Max Cleland, multiple amputee
Helen Keller, deaf-blind

ACTIVITY C-5**Role Play: Reactions to Handicaps**

Objective: To increase students' sensitivity to the rights and feelings of handicapped individuals

Materials: None

Participants: At least two students

Procedure: Have your students role play some of the situations listed below. Vary the role players to include both sexes. Allow different groups of students to plan and role play the same situation.

Situations:

- A student in a wheelchair has dropped his/her books in the middle of a crowded hall between classes.
- A partially-sighted student is holding up the lunch line by (choose one) (a) slowly counting the correct change, (b) finding the correct silverware, or (c) studying the menu choices.
- A student with crutches is blocking the aisle of the bus when it arrives at school.
- You are paired with (choose one) (a) a student with partial sight to do some library work or (b) a student with cerebral palsy, who walks awkwardly, for relays in gym.
- During recess, a student with cerebral palsy asks to join your baseball team.
- A deaf student in your gym class is (choose one) (a) put on your basketball team for intramural competition or (b) doesn't hear the instructions to do a series of exercises with a partner.

ACTIVITY C-6**Speaker: Handicapped Visitor**

Objective: To help students get to know a handicapped individual

Materials: Any equipment requested by the chosen speaker (e.g., slide projector, podium, chalkboard, etc.)

Procedure: Research your community service agencies to learn the names of handicapped individuals who would be willing to speak to your class. Agencies that you might contact through the white pages of your telephone directory are:

- Under the name of your city/town: a. Mental Health Center; b. Rehabilitation Services; c. Board of Education.
- Social service agencies listed under the name of the handicap (e.g., blind, mentally retarded, cerebral palsy, deaf, epilepsy).
- Under the name of your state: a. Department of Labor and Industry, Vocational Rehabilitation Bureau; b. Welfare Department, Handicapped; c. Information.

Determine the items you want the speaker to discuss

- Explaining the handicap in terms appropriate to the students age levels
- Telling the students about job experiences—adjustments to duties, requirements, and daily activities
- Discussing the effects of the handicap on types of education, jobs, family, etc.
- Explaining ways of interacting with others, personal experiences
- Answering students' questions

A day or so before the visit, tell the students who will be speaking and why the speaker is coming. Plan with them a list of questions they would like to ask. Discuss and evaluate the purpose of each question with the students.

After the visit you may want the class members to write a short paper on the handicap that was discussed. They should tell how this handicap affects daily activities and what adjustments can be made by the handicapped individual and by those around him/her.

ACTIVITY C-7

Research Investigation: Accessibility

Objective: To help students become aware of physical barriers to persons in wheelchairs which may exist within their school

Materials: Chalkboard and chalk, chart paper and felt pens, or ditto Paper, or ditto copies, and pencils for students
Tape measures and/or rulers

Protractors or other instruments to measure angles
Wheelchair (optional)

Procedures:

Use chalkboard, chart, or ditto to present the following partial list of recommended building specifications for wheelchair use. Discuss the probable reasons for all these specifications, then ask students to survey their own school building to see which specifications are now met.

1. passageways at least 3'6" wide
2. doorways at least 2'10" wide
3. ramps, with a grade of no more than 8%, or elevators, if it's necessary to move from one level or floor to another
4. clear access of at least 3'6" on both sides of all doors
5. floors that don't change level or have thick mats or carpets
6. switches and other controls, including telephones and fire alarms, no higher than 4'0" above the floor and with clear floor space below them to allow close approach by the wheelchair
7. 2'6" clear knee space under all desks, tables, work spaces, and washbasins
8. toilet stalls measuring no less than 5'0"x5'0" or 3'0"x6'0"
9. spaces 2'6" wide and 4'0" long in clear view of all activities in assembly areas
10. water fountains with spouts no higher than 2'10" from the floor

Students should report their findings and discuss changes which are needed to enable a person in a wheelchair to use the building.

An optional and highly desirable activity would be to test the students' findings. Have one student follow his/her daily schedule using a wheelchair. Students should make note of all obstacles that are found and all cases in which the student must leave the wheelchair to perform a task. These findings should be compared with the results of the students' original survey.

A. General Provisions and Definitions

Purpose of Regulations (§ 121a.1)

NOTE: Subpart A covers the purposes and applicability of these regulations and includes definitions of statutory terms and other definitions related to these terms.

The purpose of these regulations is:

- to insure that all handicapped children have available to them a free appropriate public education (FAPE) which includes special education and related services to meet their unique needs;
- to insure that the rights of handicapped children and their parents are protected;
- to assist States and localities to provide for the education of all handicapped children; and
- to assess and insure the effectiveness of efforts to educate those children.

Applicability to State, Local, and Private Agencies (§ 121a.2)

These regulations apply to:

- each State which receives Federal funds under P.L. 94-142;
- each public agency within the State that is involved in the education of handicapped children (e.g., State educational agency (SEA), local educational agency (LEA), Departments of Mental Health and Welfare, State School for the Deaf, State correctional facilities); and
- each handicapped child who has been referred to or placed in private schools by a public agency.

Definition of Statutory Terms

Free Appropriate Public Education (FAPE) (§ 121a.4)

"FAPE" means special education and related services which:

- are provided at no cost to parents;
- meet standards set by the State;
- include preschool, elementary and secondary school education in the State; and
- are provided as part of an individualized education program (IEP).

Handicapped Children (§ 121a.5)

The term "handicapped children" means children who are in need of special education and related services because they have been evaluated as:

- | | |
|-----------------------------------|---|
| • mentally retarded | • orthopedically impaired |
| • hard of hearing | • other health impaired |
| • deaf | • deaf-blind |
| • speech impaired | • multi-handicapped |
| • visually handicapped | • having specific learning disabilities |
| • seriously emotionally disturbed | |

Include (§ 121a.6)

NOTE: See § 121a.5(b) for specific definitions for each impairment.

The term "include" means items named are not all of the possible items that are covered, whether like or unlike the ones named.

Intermediate Educational Unit (IU) (§ 121a.7)

An intermediate educational unit is any public agency other than a School District which is supervised by the State, is established by State law to provide free public

APPENDIX A

HIGHLIGHTS OF REGULATIONS IMPLEMENTING P.L. 94-142



Local Educational Agency (LEA)
(§ 121a.8)

education on a regional basis, and provides special education and related services to handicapped children in the State.

A local educational agency is a public board of education or other public authority that is recognized in a State as an administrative agency for its public elementary or secondary schools in a city, county, township, school district or other subdivision, or combination of school districts or counties. For the purpose of these regulations, the term "local educational agency" includes intermediate educational units.

Native Language
(§ 121a.9)

Where used with reference to a person of limited English-speaking ability, "native language" means the language normally used by that person, or in the case of a child, the language normally used by the parents of the child.

NOTE: The regulations allow for the following exceptions:

1. When there is a difference between the language used by the child and the parent, all direct communication with the child should be in the language normally used by the child. (This is important during the evaluation of the child.)
2. When the person is blind or deaf or has no written language, the mode of communication should be that normally used by the person (e.g., sign language, braille, or oral communication).

Parent
(§ 121a.10)

The term "parent" means a parent, a guardian, a person acting as a parent of a child (e.g., grandparent or step-parent with whom a child lives, as well as persons who are legally responsible for a child's welfare), or a surrogate parent who has been appointed by a public agency. (See A-33 Surrogate Parents.)

Public Agency
(§ 121a.11)

Public agency includes the State, School Districts, intermediate units and other political subdivisions of the State which are responsible for providing education to handicapped children.

Qualified
(§ 121a.12)

The term "qualified" means a person has met State approved or recognized certification, licensing, registration or other comparable requirements which apply to the area in which he or she is providing special education or related services.

Related Services
(§ 121a.13)

The term "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education. These services include:

- speech pathology and audiology
- psychological services
- physical and occupational therapy
- recreation
- early identification and assessment of disabilities in children
- counseling services
- medical services for diagnostic or evaluation purposes
- school health services
- social work services in school
- parent counseling and training

NOTE:

1. The list of related services is not exhaustive and may include other services if they are required to assist the handicapped child to benefit from special education (e.g., artistic and cultural programs, art, music, and dance therapy).
2. Only those services deemed necessary to assist the child are required to be provided.
3. There are certain kinds of services which might be provided by persons from varying professional backgrounds and with a variety of operational titles, depending upon requirements in individual States (e.g., counseling

services might be provided by social workers, psychologists, or guidance counselors; and psychological testing might be done by qualified psychological examiners, psychometrists, or psychologists).

Special Education
(§ 121a.14)

The term "special education" means specially designed instruction, provided at no cost to the parent, to meet the unique needs of a handicapped child.

Special education includes:

- classroom instruction
- instruction in physical education
- home instruction
- instruction in hospitals and institutions
- vocational education instruction
- related services as defined above

Physical Education
(§ 121c.14(b)
(2))

The term "physical education" means the development of:

- physical and motor fitness
- fundamental motor skills and patterns
- skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports)

Physical education includes:

- special physical education
- adapted physical education
- movement education
- motor development

Vocational Education
(§ 121a.14(b)
(3))

The term "vocational education" means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

Vocational education includes industrial arts and consumer and homemaking education programs.

State
(§ 121a.15)

The term "State" means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Parental Consent
(§ 121a.500)

The term "parental consent" means:

- the parent has been fully informed of all information relevant to the activity for which consent is sought. (A parent must be informed in his or her native language or other mode of communication);
- the parent understands and agrees in writing to the carrying out of the activity for which consent is sought and the consent describes that activity and lists the records (if any) which will be released and to whom; and
- the parent understands that the granting of consent is voluntary and may be revoked at any time.

Evaluation
(§ 121a.500)

The term "evaluation" means the use of specific procedures used selectively with an individual child to determine whether the child is handicapped and the nature and extent of the special education and related services that the child needs.

The term does not include basic tests administered to, or procedures used with, all children in a school, grade, or class.

Personally Identifiable Information (PII)
(§ 121a.500)

Personally Identifiable Information includes:

- the name of the child, the child's parent, or other family member;
- the address of the child;
- a personal identifier (e.g., child's social security number or student number); and

<i>Public Expense</i> (§ 121a.503 (a)(3) (ii))	• a list of personal characteristics or other information which would make it possible to identify the child with reasonable certainty.
<i>Independent Educational Evaluation</i> (§ 121a. 503 (a)(3) (i))	The term "public expense" means the public agency either pays for the full cost of a service or insures that the service is otherwise provided at no cost to the parent.
<i>At No Cost</i> (§ 121a.14 (b) (1))	The term "independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the public agency which is responsible for the education of the child being evaluated.
<i>Destruction of Information</i> (§ 121a. 560)	The term "at no cost" means that special education programs and related services will be provided without charge to the parent (including the cost of a residential school). This does not preclude, however, incidental fees which are normally charged to non-handicapped students and their parents as part of the regular education program.
<i>Education Records</i> (§ 121a.560)	The term "destruction" when used in relation to education records means physical destruction or removal of personal identifiers from educational records so that information is no longer personally identifiable.
<i>Participating Agency</i> (§ 121a.560)	The term "education records" means those records which are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution.
<i>Individualized Education Program (IEP)</i> (§ 121a.340)	The term "participating agency" means any agency or institution which collects, maintains, or uses personally identifiable information covered by these regulations or any agency or institution from which such information is obtained.
<i>First Priority Children</i> (§ 121a.320 (a))	The term "individualized education program" means a written statement for each handicapped child that provides, among other things, a prescription for the specific special education programs and related services for each child.
<i>Second Priority Children</i> (§ 121a.320(a))	The term "first priority children" means handicapped children who are not receiving any education at the present time and for whom the State must make available a FAPE.
<i>Direct Services</i> (§ 121a.370 (b)(1))	The term "second priority children" means handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education at the present time.
<i>Support Services</i> (§ 121a.370 (b) (2))	The term "direct services" means services provided directly to a handicapped child by the State, by contract, or through other arrangements.
<i>Private School Handicapped Children</i> (§ 121a.450)	The term "support services" means services which include: • implementing the comprehensive system of personnel development, • recruitment and training of hearing officers and surrogate parents, and • public information and parent training activities relating to a free appropriate public education for handicapped children The term "private school handicapped children" means handicapped children enrolled in private schools or facilities who are not placed or referred by public agencies.

Impartial Hearing Officer
(§ 121a.507)

The term "impartial hearing officer" means a neutral or unbiased person selected by the public agency to conduct a due process hearing and to make an objective decision on the basis of information and evidence presented during the hearing.

Surrogate Parent
(§ 121a.514)

The term "surrogate parent" refers to an individual appointed by a public agency (in the absence of the child's natural parents) to safeguard a child's rights, in all matters related to the identification, evaluation and placement of the child and provision of a FAPE (see also A-45).

**B. State Annual Program Plans
and Local Applications**

NOTE: Subpart B includes specific requirements relating to:

- the contents of the State annual program plan which must be submitted annually and adhered to in order to receive funds under P.L. 94-142,
- the contents of the School District applications for use of funds under P.L. 94-142,
- participation by the Bureau of Indian Affairs, Department of the Interior, and
- public participation prior to the State's adoption of an annual program plan.

For the purpose of this document, only the section relating to public participation has been included.

*Public Hearings Before
Adopting An Annual Program
Plan* (§ 121a.280)

Prior to adoption of an annual program plan, the State must:

- make the plan available to the general public
- hold public hearings
- provide an opportunity for comment by the general public

The State must provide notice to the general public of the public hearings.

Notice to the Public
(§ 121a.281)

The notice must be published in newspapers or other media with circulation adequate to notify the general public about the hearings.

Opportunity to Participate
(§ 121a.282 (a))

The State must conduct the public hearing at times and places that give interested parties throughout the State a reasonable opportunity to participate. The State must make the plans available for comment at least 30 days following the date of the notice to the public.

Review of Public Comment
(§ 121a.283)

Before adopting an annual program plan, the State must review and consider all public comments and make any necessary modifications in the plan.

*Publication and Availability
of Approved Plan* (§ 121a.284)

After the U.S. Commissioner approves an annual program plan, the State must notify the public of its approval and make the plan available to any interested person.

C. Services

NOTE: Subpart C contains regulations governing the required major service components. These include:

- free appropriate public education (FAPE)
- full educational opportunity goal
- priorities in the use of Part B funds
- individualized education program (IEP)
- direct services by the State
- comprehensive system of personnel development

*Timelines for Providing Free
Public Education (FAPE)
(§ 121a.300)*

*Public and Private
Residential Placement
(§ 121a.302)*

*Proper Functioning of Hearing
Aids (§ 121a.303)*

*Full Educational Opportunity
Goal (§ 121a.304)*

*Program Options
(§ 121a.305)*

Free Appropriate Public Education

The regulations require that:

- by September 1, 1978, each State must insure that FAPE is available to all handicapped children ages 3-18 within the State, and,
- by September 1, 1980, each State must insure that FAPE is available to all handicapped children ages 3-21. This requirement does not apply to age groups 3-5 and 18-21 if it is "inconsistent" with State laws and court orders which govern the provision of free public education to handicapped children in that State.

If placement of a handicapped child in a public or private residential special education program is necessary, the program, including nonmedical care and room and board, must be provided at no cost to the parents.

This requirement applies only to placements which are made by public agencies for educational purposes and includes placements in State-operated schools for the handicapped (e.g., State school for the deaf or blind).

Each public agency must insure that the hearing aids worn by deaf and hard of hearing children in school are functioning properly.

Each State must insure that each public agency establishes and implements a goal of providing full educational opportunity to all handicapped children served by that agency.

NOTE:

1. In meeting the full educational opportunity goal, School Districts are encouraged to include artistic and cultural activities in programs.
2. To understand the full impact of this provision, the distinction between the terms "free appropriate public education" and "full educational opportunity goal" are outlined below:

Free Appropriate Public Education (FAPE):

- must be made available to all handicapped children within the specific mandated timelines and age ranges and
- must include special education and related services which are provided in accordance with an IEP.

Full Educational Opportunity Goal:

- is an all encompassing term and, therefore, is broader in scope than FAPE;
- covers all handicapped children ages 0-21;
- includes a basic planning dimension (including making projections of estimated number of handicapped children);
- permits each agency to establish its own timetable for meeting the goal; and
- calls for the provision of additional facilities, personnel, and services to further enrich a handicapped child's educational opportunity beyond that mandated by the FAPE requirements.

The term "goal" means an end to be sought. While an agency may never achieve its goal in the absolute sense, it must be committed to implementing this provision and must be in compliance with the policies and procedures in the annual program plan. Finally, this provision DOES NOT relieve the agency from its obligations under the FAPE requirement.

Each public agency must insure that handicapped children have available to them the variety of educational programs and services available to non-handicapped children including art, music, industrial arts, consumer and homemaking education, and vocational education.

*Provision of
Nonacademic Services
(§ 121a.306)*

Each public agency must take steps to provide all handicapped children with an equal opportunity to participate in nonacademic and extracurricular services and activities.

Nonacademic and extracurricular services and activities may include:

- counseling services
- athletics
- transportation
- health services
- recreational activities
- special interest groups or clubs sponsored by the public agency
- referral to agencies which provide assistance to handicapped persons
- employment of students (including both employment by the public agency and assistance in making outside employment available)

*Physical Education
(§ 121a.307)*

Physical education (PE) services, either in the regular PE program or in a specially designed PE program, must be made available to every handicapped child receiving a FAPE.

*Regular Physical Education
(§ 121a.307b)*

Each handicapped child must be afforded the opportunity to participate in the regular PE program available to nonhandicapped children unless:

- the child is enrolled full-time in a separate facility or
- the child needs specially designed physical education, as prescribed in the child's IEP.

*Special Physical Education
(§ 121a.307(c))*

If a specially designed PE program is prescribed, the public agency must provide the services directly or make arrangements for it to be provided through other public or private programs.

*Physical Education Services
in Separate Facilities
(§ 121a.307(d))*

If a handicapped child is enrolled in a separate facility, the public agency must insure that the child receives appropriate PE services.

Priorities in the Use of Funds Received Under P.L. 94-142

NOTE: The general intent of the provisions in this section is to require each State and School District to establish priorities with regard to the use of funds received under P.L. 94-142

*Priorities
(§ 121a.321d)*

Each State and School District must use funds received under P.L. 94-142 in the following order of priorities:

1. to provide FAPE to first priority children (i.e., children not receiving any education), including identification, location, and evaluation of these children.
2. to provide FAPE to second priority children (i.e., children with the most severe handicaps who are receiving an inadequate education), including the identification, location, and evaluation of these children.

*Programs for First Priority
Children During School Year
1977-1978 (§ 121a.322)*

If a major component (e.g., qualified teacher) of a first priority child's educational program is not available for school year 1977-1978, the public agency must:

- provide an interim program for the child and
- develop an IEP for full implementation no later than September 1, 1978.

*Services to Other Children
(§ 121a.323)*

Part B funds may be used for training or other support services by the State or School District in school year 1977-1978, only if all first priority children in the State have been placed and have available to them at least an interim program of service.

If the State or School District is providing FAPE to all of its first priority children, then P.L. 94-142 funds can be used to provide FAPE:

- to handicapped children who are not receiving any education and who are in age groups not covered in the State (e.g., 3-5 and 18-21), or
- to second priority children, or
- to both these groups.

Individualized Education Program

NOTE: The general intent of the provisions of this section of the regulations is to ensure that an IEP is developed and implemented for each handicapped child who is being provided with special education and related services by a public agency (including other State agencies such as the department of mental health and welfare) either directly, by contract, or through other arrangements.

*State Responsibility
(§ 121a.341)*

The State must insure that:

- Each public agency develops and implements an IEP for each of its handicapped children and
- an IEP is developed and implemented for each handicapped child who is placed in or referred to a private school or facility or is enrolled in a parochial or other private school and receives services from a public agency.

*When Individualized Education
Program Must Be in Effect
(§ 121a.342)*

On October 1, 1977, and at the beginning of each school year thereafter, each public agency must have in effect an IEP for every handicapped child who is receiving special education from that agency.

An IEP must be in effect before special education and selected services are provided and must be implemented as soon as possible (i.e., with no undue delay) following the IEP meetings.

NOTE: It is expected that an IEP will be implemented immediately following the IEP meetings with the following exceptions:

1. when meetings occur during the summer or a vacation period, or
 2. when there are circumstances which require a short delay (e.g., working out transportation arrangements).
- However, THERE CAN BE NO UNDUE DELAY IN PROVIDING SPECIAL EDUCATION AND RELATED SERVICES TO THE CHILD.

*IEP Meetings
(§ 121a.343)*

In general, each public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising a handicapped child's IEP.

For handicapped children currently being served and in need of special education during school year 1977-1978, a meeting must be held early enough to insure the development of an IEP by October 1, 1977.

*Meetings for Newly Identified
Handicapped Children
(§ 121a.343 (c))*

For all other handicapped children (i.e., new handicapped children initially evaluated after October 1, 1977), a meeting must be held within 30 calendar days after it has been determined that the child needs special education and related services.

Review Meetings
(§ 121a.343(d))

A meeting must be held at least once a year to review and, if appropriate, revise each child's IEP.

NOTE: The timing of these review meetings could be on the anniversary date of the last IEP meeting, but this is left to the discretion of the agency.

Participants in IEP Meetings
(§ 121a.344)

The public agency must insure that at each IEP meeting the following participants are included:

- a representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education
- the child's teacher
- one or both of the child's parents
- the child, when appropriate
- other individuals at the discretion of the parent or agency

For a handicapped child who has been evaluated for the first time, the meeting must also include:

- a member of the evaluation team (e.g., speech-language pathologist for a child whose primary handicap is a speech impairment) or
- a representative of the public agency (e.g., the child's teacher) who is knowledgeable about the evaluation procedures used and is familiar with the results of the evaluation.

NOTE:

1. For deciding which "teacher" should participate in IEP meetings, the following guidelines are suggested:
 - (a) For a handicapped child who presently is receiving special education, the "teacher" could be the child's special education teacher. If the child's handicap is a speech impairment, the "teacher" could be the speech-language pathologist.
 - (b) For a handicapped child who is being considered for placement in special education, the "teacher" could be the child's regular teacher, or a teacher qualified to provide education in the type of program in which the child may be placed, or both.
 - (c) If the child is not in school or has more than one teacher, the agency may designate which teacher will participate in the meeting.
2. It is suggested that either the teacher or the agency representative be qualified in the area of the child's suspected disability.
3. It was the intent of Congress that IEP meetings generally be small, since having a large group of people at an IEP meeting may be unproductive and very costly and could essentially defeat the purpose of insuring active, open parent involvement.

Parent Participation at the IEP Meetings
(§ 121a.345(a))

To insure that one or both of the parents of the handicapped child are present at each IEP meeting or are afforded the opportunity to participate, the public agency must:

- notify parents of the meeting early enough to insure that they will have an opportunity to attend and
- schedule the meetings at a mutually agreed on time and place (e.g., after school hours if necessary).

Notice of IEP Meetings to Parents
(§ 121a.345(b))

The notice to parents must indicate:

- purpose
- time
- location
- who will be in attendance

If neither parent can attend, the agency must use other methods to insure parent participation, including individual or conference telephone call.

*IEP Meeting
Without Parents
(§ 121a.345(d))*

An IEP meeting can be conducted without a parent if the agency has taken whatever steps are necessary to inform the parent of the importance of the meeting but is still unable to convince the parent to attend. In this case, the agency must keep a record of all attempts to arrange a mutual time and place such as:

- detailed records of telephone calls made or attempted and the results of those calls,
- copies of correspondence sent to the parents and any responses received, and
- detailed records of visits made to the parent's home or place of employment and the results of those visits.

*Interpreter for Parents
at IEP Meeting
(§ 121a.345(e))*

The public agency must take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

*Providing Copies of IEP
to Parents (§ 121a.345(f))*

Copies of a child's IEP must be made available to parents on request.

*Content of the IEP
(§ 121a.346)*

The IEP of each child must include:

- a statement of the child's present levels of educational performance;
- a statement of annual goals, including short term instructional objectives;
- a statement of the specific special education and related services to be provided to the child and the extent to which the child will be able to participate in regular educational programs;
- the projected dates for initiation of services and the anticipated duration of the services; and
- appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.

*IEPs for New Private
School Placements
(§ 121a.347)*

Before a handicapped child is placed in or referred to a private school or facility, the public agency must:

- initiate and conduct a meeting to develop an IEP and
- insure that a representative from the private school or facility attends the meeting. If the representative cannot attend, other methods (e.g., individual or conference call) must be used to insure participation.

*IEPs for Current Private School
Placements (§ 121a.347(a))*

An IEP must be developed for each handicapped child placed in a private school or facility by the public agency prior to October 1, 1977.

*Reviewing and Revising IEPs
at Private Schools
(§ 121a.347(b))*

After a child is placed in a private school or facility:

- meetings to review and revise IEPs can be initiated and conducted by the private school AT THE DISCRETION OF THE PUBLIC AGENCY and
- the public agency must insure that parents and an agency representative are involved in any decision about the IEP and agree to any proposed changes before those changes take place.

*Responsibility for Full Compliance
with Regulations
(§ 121a.347(c))*

The public agency and the State are responsible for insuring that the private school or facility is in full compliance with these regulations.

*IEP Accountability
(§ 121a.349)*

If a child does not achieve the growth projected in the annual goals and objectives stated in an IEP, NOTHING IN THE STATUTE OR IN THESE REGULATIONS HOLDS THE PUBLIC AGENCY, TEACHER, OR OTHER PERSON ACCOUNTABLE.

NOTE: The IEP is not a legally binding document and as such the public agency and teacher are relieved from the guarantee that the child will progress at the specified rate or achieve the growth projected as stated in the IEP.

*Scope of the Personnel
Development System
(§ 121a.380)*

*Participation of Other
Agencies and Institutions in the
Development, Review, and
Annual Update of the System
(§ 121a.381)*

*Annual Personnel Needs
Assessment (§ 121a.382(b))*

*Inservice Training
(§ 121a.382(e))*

On the other hand, this section of the regulations

- does not relieve agencies from making "good faith efforts" to assist the child in achieving the objectives and goals stated in the IEP and
- does not limit the parents' right to complain and ask for revisions or to invoke due process procedures if the parent feels such good faith efforts are not being made.

Since participation of teachers (and other agency staff) in IEP meetings is a statutory requirement, collective bargaining agreements and individual annual contracts may have to be renegotiated to cover employee participation in the development and review of IEPs. However, for purposes of these regulations, collective bargaining is an area which is considered to be solely within the authority of the public agency and its employees (and their user representatives, if any) and, therefore, is not covered by these regulations. Where collective bargaining agreements must be modified to deal with additional duties and compensation for after hour activities, the public agency must negotiate for modifications which comply with the statute and regulations.

Comprehensive System of Personnel Development

NOTE: As a condition of receiving funds under P.L. 94-142, a State must include a description of programs and procedures for the development and implementation of a comprehensive system of personnel development in its annual program plan. The State is responsible for the implementation of all components of the system.

A comprehensive system must include:

- inservice training of general and special education instruction, related services, and support personnel (based on the results of an annual needs assessment)
- procedures to insure that all personnel involved in carrying out the requirements of these regulations meet the definition of being "qualified;"
- effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting promising educational practices and materials developed through those projects.

The State must insure that all public and private institutions of higher education, and other agencies and organizations (including representatives of handicapped, parent, and other advocacy organizations) in the State which have an interest in the preparation of personnel for the education of handicapped children, have an opportunity to participate fully in the development, review, and annual updating of the comprehensive system of personnel development.

The State must conduct an annual needs assessment to determine if a sufficient number of qualified personnel are available in the State.

The result of the needs assessment must indicate the need for:

- new personnel and
- retrained personnel.

The State must insure that ongoing inservice training programs are available to all personnel who are engaged in the education of handicapped children and that these programs include:

- the use of incentives which insure participation by teachers (e.g., released time, payment for participation, options for academic credit, salary step credit, certification renewal, or updating professional skills);

- the involvement of local staff; and
- the use of innovative practices which have been found to be effective.

The State's annual program plan must:

- describe the process used in determining the inservice training needs of personnel engaged in the education of handicapped children;
- identify the areas in which training is needed (e.g., individualized education programs, non-discriminatory testing, least restrictive environment, procedural safeguards, and surrogate parents);
- specify the groups requiring training (e.g., special teachers, regular teachers, administrators, psychologists, speech-language pathologists, audiologists, physical education teachers, therapeutic recreation therapists, occupational therapists, medical personnel, parents, volunteers, hearing officers, and surrogate parents);
- describe the content and nature of training for each area in which training is needed;
- describe how the training will be provided in terms of:
 - geographical scope (e.g., Statewide, regional, or local) and
 - staff training sources (e.g., college and university staffs, State and local educational agency personnel, and non-agency personnel);
- specify the funding sources to be used;
- specify the time frame for providing the training; and
- specify procedures for effective evaluation of the extent to which program objectives are met.

*Personnel
Development Plan
(§ 121a.383)*

The State's personnel development plan must:

- describe the results of the needs assessment with respect to identifying needed areas of training (e.g., IEPs, non-discriminatory testing, least restrictive environment, procedural safeguards, and surrogate parents);
- assign priorities to the identified needed areas of training; and
- identify the target populations for personnel development, including:
 - general education instructional personnel,
 - special education instructional personnel,
 - administrative personnel,
 - support personnel, and
 - other personnel (e.g., paraprofessionals, parents, surrogate parents, and volunteers).

*Adoption of
Educational Practices
(§ 121a.385)*

The State annually must adopt:

- a statewide system designed to adopt, where appropriate, promising educational practices and materials proven effective through research and demonstration;
- a thorough reassessment of educational practices used in the State; and
- the identification of State, local, and regional resources (human and material) which will assist in meeting the State's personnel preparation needs.

*Evaluation and Monitoring
of the System of Personnel
Development (§ 121a.386)*

The State annually must:

- include procedures for evaluating the overall effectiveness of the system of personnel development and the procedures for administration of the system and
- undertake monitoring activities to assure the implementation of the system of personnel development.

*Technical Assistance to Local
40 Educational Agencies (§ 121a.387)*

The State must provide technical assistance to School Districts in their implementation of the State's comprehensive system of personnel development.

D. Private Schools

NOTE: Subpart D covers regulations governing the State's financial and administrative responsibilities related to:

- handicapped children placed in or referred to private schools by public agencies
- handicapped children whose parents choose to educate them in private schools even if a FAPE is made available by the State.

Handicapped Children Placed in or Referred to Private Schools by Public Agencies

Each State must insure that a handicapped child who is placed in or referred to a private school by a public agency:

- is provided special education and related services in accordance with the child's IEP, at no cost to the parents, and
- has all of the rights of a handicapped child who is served directly by a public agency in a public school or institution.

To insure the implementation of a child's IEP and protection of rights, the State must:

- monitor compliance through on-site visits, parent questionnaires, and written reports;
- disseminate copies of applicable State standards to each private school; and
- provide an opportunity for private schools to participate in the development of State standards which apply to them.

Handicapped Children Placed in Private Schools by Parents

If the State makes a FAPE available and the parents choose to place the child in a private school, the public agency is not required to pay for the child's education but is required to make special education and related services available.

The State must insure that provisions are made for the participation of private school handicapped children in the education programs assisted or carried out with Part B funds by making special education and related services available to them.

Each School District must provide special education and related services to private school handicapped children residing in the jurisdiction of the district.

The needs of private school handicapped children, the number who will participate, and the types of services provided to them by the School District must be determined after consultation with persons knowledgeable as to the needs of these children.

Services to private school handicapped children may be provided through such arrangements as:

- dual enrollment,
- educational radio and TV, and
- mobile educational service and equipment.

Responsibility of States
(§ 121a.401)
(§ 121a.402)

*Placement of Children in
Private Schools by Parents*
(§ 121a.403)

Responsibility of State
(§ 121a.451)

LEA Responsibility
(§ 121a.452)

*Determination of Needs,
Number of Children, and
Type of Services* (§ 121a.453)

Service Arrangements
(§ 121a.454)

Differences in Services
(§ 121a.455)

The School District may provide services to private school handicapped children which are different from services provided to public school children if:

- the differences are necessary to meet the special needs of the private school children and
- the services are comparable in quality, scope and opportunity for participation to those provided to public school children with needs of equal importance.

Personnel
(§ 121a.456)

Public school personnel may be made available in other than public school facilities only to the extent necessary to provide required services not normally provided by the private school.

Each State and School District providing services to private school handicapped children must maintain continuing administrative control and direction over these services.

Services provided in private schools with P.L. 94-142 funds may not include:

- payment of salaries to teachers or other employees of private schools except for services performed outside their regular hours and under public supervision and control or
- payment for construction of private school facilities.

Equipment
(§ 121a.459)

Equipment purchased with P.L. 94-142 funds may be placed on private school premises for a limited period of time, but the public agency must retain title and administrative control over all equipment.

The public agency must keep records of and accounts for the equipment and insure that the equipment is used solely for the purposes of the program.

*Prohibition of Segregation of
Public and Private School Children
in Public Facilities* (§ 121a.458)

Programs carried out in public facilities involving participation of both public and private school handicapped children may not include classes that are separated on the basis of school enrollment or religious affiliations of the children.

E. Procedural Safeguards

NOTE: Subpart E sets forth procedural safeguards including:

- due process procedures for parents and children relating to the identification, evaluation, and placement of a handicapped child;
- protection in procedures used to evaluate the handicapped child;
- procedures to insure placement of handicapped children in the least restrictive environment;
- confidentiality of personally identifiable information collected, maintained, or used by agencies; and
- procedures of the U.S. Office of Education (USOE) for notifying the State of the following action:
 - disapproval of a State's annual program plan,
 - withholding payment from a State, and
 - waiving requirements regarding supplementary and supplanting Part B funds.

For the purpose of this document, the provisions related to procedures of the USOE are not covered.

Due Process Procedures for Parents and Children

*General Responsibility of Public
Agencies* (§ 121a.501)

Each State must insure that each public agency establishes and implements due process procedures for parents and children which comply with these regulations.

*Parents' Right to Examine All
Education Records* (§ 121a.502)

Parents of a handicapped child must be permitted to inspect and review all education records with respect to the identification, evaluation, and educational placement of their child and the provision of a FAPE to that child.

*Parents' Right to Obtain
an Independent Educational
Evaluation (§ 121a.503)*

If parents of a handicapped child disagree with an evaluation of the public agency, they have the right to obtain an independent education evaluation at public expense or at their own expense.

If the parents obtain an independent evaluation at their own expense, the results of the evaluation:

- must be considered in any decision regarding the FAPE of the child and
- may be presented as evidence at a due process hearing.

If a hearing officer requests an independent evaluation as part of a hearing, the cost must be at public expense.

*Hearing Officer's Request for an
Independent Evaluation
(§ 121a.503(d))*

*Prior Notice to Parents
(§ 121a.504(a))*

Parents of a handicapped child must be notified in writing "a reasonable time" before the public agency:

- purposes to initiate or change the identification, evaluation, placement of the child, or provision of a FAPE to that child or
- refuses to initiate or change the identification, evaluation or placement of the child, or provision of a FAPE to that child.

*Content of Notice
(§ 121a.505)*

The notice must include:

- a full explanation of all procedural safeguards available to the parents;
- a description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected;
- a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposal or refusal; and
- a description of any other factors which are relevant to the agency's proposal or refusal.

The notice must be:

- written in language understandable to the general public, and
- provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

If the native language or other mode of communication of the parent is not a written language, the State, or School District must take steps to insure:

- that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication,
- that the parent understands the content of the notice, and
- that there is written evidence that these requirements have been met.

*Parental Consent
(§ 121a.504(b))*

"Parental Consent" must be obtained before:

- conducting a preplacement evaluation and
- initial placement of a handicapped child in a program providing special education and related services.

Once the child is placed, any changes in the child's special education program are subject only to requirements covering "prior notice" and not to "parental consent."

*Procedures Where Parent Refuses
Consent (§ 121a.504(c))*

If a parent refuses consent, the public agency must:

- follow procedures of State law covering parental consent before evaluation (e.g., issue court order authorizing

*Impartial Due Process
Hearing (§ 121a.506)*

*Impartial Hearing Officer
(§ 121a.507)*

*Rights at a Hearing
(§ 121a.508)*

*Hearing Decision
and Right to Appeal
(§ 121a.509)*

*Administrative Appeal
Procedures—Impartial
Review (§ 121a.510)*

*Impartial Review
Decision and
Right to Appeal
(§ 121a.510(c))*

*Civil Court Action
(§ 121a.511)*

- evaluation) or,
- in the absence of an existing State law, follow due process procedures described in these regulations.

A parent or a public educational agency may initiate a hearing on matters regarding a public agency's proposed plan to initiate, change, or refuse the identification, evaluation, educational placement, or provision of a FAPE. At the parent's request or when a hearing is initiated, the public agency must inform the parent of any free or low-cost legal services or other relevant services available in the area.

A formal due process hearing must be conducted by an impartial hearing officer. (See A-32, Impartial Hearing Officer.)

Any party to a hearing has the right to:

- be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children;
- present evidence and confront, cross-examine, and compel the attendance of witnesses;
- prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;
- obtain a written or electronic verbatim record of the hearing; and
- obtain written findings of fact and decisions. (The public agency must transmit those findings and decisions, after deleting any personally identifiable information, to the State advisory panel.)

Parents involved in hearings must be given the right to:

- have their child present, and
- have the hearing open to the public.

A decision made by a hearing officer is final unless it is appealed by a party to the hearing.

Only a person who is a party to a hearing conducted by a public agency has the right to an administrative appeal conducted by the State.

If there is an appeal, the State must conduct an impartial review of the hearing.

The reviewing officer conducting the impartial review must:

- examine the entire hearing record;
- insure that the procedures at the hearing were consistent with the requirements of due process;
- seek additional evidence if necessary;
- afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;
- make an independent decision on completion of the review; and
- give a copy of written findings and the decision to the parties.

The decision made by the reviewing officer is final, unless a person brings civil court action.

A civil court action may be brought by any person aggrieved by the hearing officer's decision who does not have the right to an administrative appeal or by any party aggrieved by the decision of a reviewing officer.

*Timelines and
Convenience of
Hearings and
Reviews
(§ 121a.512)*

The public agency must insure that not later than 45 days after the receipt of a request for a hearing:

- a final decision is reached in the hearing and
- a copy of the decision is mailed to each of the parties.

The State must insure that not later than 30 days after the receipt of a request for an impartial review:

- a final decision is reached in the review, and
- a copy of the decision is mailed to each of the parties.

A hearing or reviewing officer may grant specific extensions of time beyond the time periods specified above at the request of either party.

Each hearing and each review must be conducted at a time and place which is reasonably convenient to the parents and child involved.

The child must remain in his or her present educational placement pending any administrative or judicial proceeding unless:

- the public agency and the parents agree otherwise, or
- the complaint involves an application for initial admission to public school. In this case the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings.

NOTE: While the placement may not be changed, this does not preclude the agency from using its normal procedures for dealing with children who are endangering themselves or others.

Each public agency must insure that the rights of a child are protected when:

- no "parent" can be identified,
- the whereabouts of a parent cannot be discovered after reasonable effort, or
- the child is a ward of the State.

If one of the above conditions exists, the public agency must assign an individual to act as a surrogate for the parents (see also A-33).

The surrogate parent may represent the child in all matters relating to:

- the identification, evaluation, and educational placement of the child and
- the provisions of a FAPE to the child.

Protection in Evaluation Procedures

NOTE: Each State must insure that each public agency establishes and implements procedures which meet the requirements of this section.

Testing and evaluation materials and procedures used for the evaluation and placement of handicapped children must be selected and administered so as not to be racially or culturally discriminatory.

Before a handicapped child is placed initially in a special education program, a full and individual evaluation of the child's educational needs must be conducted.

*Child's Placement Status
During Any Administrative
or Judicial Proceedings
(§ 121a.513)*

*Surrogate Parents
(§ 121a.514)*

*Responsibilities
of a Surrogate Parent
(§ 121a.514(e))*

*Non-discriminatory
Testing and Evaluation
Materials and Procedures
(§ 121a.530(b))*

*Preplacement Evaluation
(§ 121a.531)*

Evaluation Procedures
(§ 121a.532)

States and School Districts must insure, at a minimum, that the following evaluation procedures are adhered to:

1. Tests and other evaluation materials:
 - are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so;
 - have been validated for the specific purpose for which they are used;
 - are administered by trained personnel in conformance with the instructions provided by their producer.
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
3. Tests are selected and administered to ensure that the test results accurately reflect whatever factors the test purports to measure (e.g., the child's aptitude or achievement level) rather than reflecting the child's impaired sensory, manual, or speaking skills (except where those skills are the factors which the test purports to measure).
4. No single procedure is used as the sole criterion for determining an appropriate educational program for a child.
5. The evaluation is made by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected disability.
6. The child is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

Placement Procedures
(§ 121a.533)

In interpreting evaluation data and in making placement decisions, each public agency must:

- draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
- insure that information obtained from all of these sources is documented and carefully considered;
- insure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
- insure that the placement decision is made in conformity with the least restrictive requirements.

If a determination is made that a child is handicapped and needs special education and related service, an IEP must be developed.

Reevaluation
(§ 121a.534)

Each State and School District must insure that:

- each handicapped child's IEP is reviewed at least once annually, and
- a full evaluation of the child is conducted every three years or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation.

Least Restrictive Environment

Least Restrictive Environment
(§ 121a.550)

Each public agency must insure:

- To the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and
- that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

*Continuum of Alternative
Placements Available
(§ 121a.551)*

Each public agency must insure that a continuum of alternative placements is available to meet the needs of handicapped children for special education and related services.

The continuum of alternative placements include (by order from least restrictive to most restrictive):

- instruction in regular classes
- special classes
- home instruction
- instruction in hospitals and institutions

Provisions for supplementary service (e.g., resource room or itinerant instruction) must also be made available in conjunction with regular class placement.

*Least Restrictive Placements
(§ 121a.552)*

Each public agency must insure:

- that each handicapped child's educational placement is determined at least annually, is based on his or her IEP, and is as close as possible to the child's home;
- that various alternative placements are available to the extent necessary to implement the IEP for each handicapped child;
- that each handicapped child is educated in the school which he or she would attend if not handicapped unless the child's IEP requires other arrangements; and
- that in selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services which he or she needs.

*Nonacademic and
Extracurricular Settings
(§ 121a.553)*

Each public agency must insure that each handicapped child participates with nonhandicapped children in nonacademic and extracurricular services and activities (e.g., meals, recess periods, recreational activities, clubs, athletics) to the maximum extent appropriate to the needs of that child.

*Children in Public or
Private Institutions
(§ 121a.554)*

Each public agency must make arrangements with public and private institutions to ensure that, to the maximum extent appropriate, handicapped children are educated with nonhandicapped children and that the least restrictive environment is selected for each handicapped child.

*Technical Assistance and
Training Activities
(§ 121a.555)*

Each State must carry out activities to ensure that teachers and administrators in all public agencies:

- are fully informed about their responsibilities for implementing the requirements related to least restrictive environment, and
- are provided with technical assistance and training necessary to assist them in their effort.

Confidentiality of Records

*Notice to Parents
Regarding Records
(§ 121a.560(a))*

The State must give adequate notice to fully inform parents about the State's policies and procedures to identify, locate, and evaluate all children who are handicapped including:

- a description of the extent to which the notice is given in the native languages of the various population groups in the State;
- a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
- a summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

Publication of Notice
(§ 121a.560(b))

*Access to Records-
Right of Parents*
(§ 121a.562)

Agency's Record of Access
(§ 121a.563)

*Records on More than
One Child* (§ 121a.564)

*List of Types and Locations of
Education Records* (§ 121a.565)

Fees
(§ 121a.566)

*Amendment of Records
at Parent's Request*
(§ 121a.567)

*Opportunity for a Records
Hearing* (§ 121a.568)

*Result of
Records Hearing*
(§ 121a.569)

- a description of all the rights of parents and children regarding this information (including the rights under the Family Educational Rights and Privacy Act of 1974 and implementing regulations).

Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media with circulation adequate to notify parents throughout the State.

Each agency which collects, maintains, or uses education records must permit parents to inspect and review records relating to their child.

The agency must comply with a parent's request without unnecessary delay and before any IEP meeting or hearing, but in no case more than 45 days after the request.

A parent's right to inspect and review education records includes:

- the right to be given explanations and interpretations of the records,
- the right to request copies of the record, and
- the right to have a representative inspect and review the records.

An agency may presume that the parent has authority to inspect and review records relating to his or her child unless it has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

Each agency must keep a record of all parties obtaining access to education records (except parents and authorized employees of that agency), including the name of the party, date of access, and purpose.

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

Each agency must provide parents, on request, a list of the types and locations of education records collected, maintained, or used by the agency.

An agency may charge parents a fee for copies of records if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

An agency may not charge a fee to search for or to retrieve information.

A parent who believes that information contained in their child's records is inaccurate or misleading or violates the child's privacy rights has the right to request that the information be amended.

The agency has the right to decide whether to amend the information within a reasonable period of time after receipt of the request.

If the agency refuses the parent's request to amend the information, it must inform the parents of the refusal, advise parents of their right to a records hearing, and, if requested, provide an opportunity for a hearing.

If, as a result of the hearing, the agency decides that the information should be amended, it must do so and inform the parents of its action in writing.

If the agency decides that the information should not be amended, it must inform parents of their right to place a statement in the record regarding any reasons for disagreeing with the agency.

*Hearing Procedures
(§ 121a.570)*

A records hearing must be conducted according to procedures under the Family Education Rights and Privacy Act of 1974.

*Parental Consent and
Personally Identifiable
Information (§ 121a.571)*

Parental consent must be obtained before personally identifiable information (PII) is:

- disclosed to anyone (unless authorized to do so under the Family Education Rights and Privacy Act) or
- used for any purpose other than meeting the requirement of those regulations.

The State must include policies and procedures in its annual program plan which are used if a parent refuses to provide consent.

Each participating agency must protect the confidentiality of PII at collection, storage, disclosure, and destruction stages.

One official at each participating agency must assume responsibility for insuring the confidentiality of any PII.

All persons collecting or using PII must receive training or instruction regarding the State's policies and procedures to ensure confidentiality of PII.

Each participating agency must maintain a current listing of the names and positions of those employees within the agency who may have access to PII.

*Destruction of Information
(§ 121a.573)*

The public agency must inform parents when PII is no longer needed to provide educational services to the child.

If the parents request, all PII which is no longer needed must be destroyed except for the student's name, address, and telephone number, grades, attendance record, classes attended, grade level completed, and year completed, which may be maintained permanently.

*Children's Rights
(§ 121a.574)*

The State must include policies and procedures in its annual program plan regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type of severity of disability.

NOTE: Under the Family Educational Rights and Privacy Act of 1974 (45 CFR 99.4(a)), the rights of parents regarding records are transferred to the student at age 18.

F. State Administration

NOTE: Subpart F covers regulations governing:

- the responsibility of the State for all educational programs
- the State's use of P.L. 94-142 funds for State administration
- the establishment and functions of a State Advisory Panel on the education of handicapped children

For purposes of this document, only the provisions related to the State Advisory Panel have been highlighted.

*Establishment of
a State Advisory Panel
(§ 121a.650)*

Each State must establish a State Advisory Panel on the education of handicapped children.

The panel must be composed of persons involved in or concerned with the education of handicapped children and must include at least one representative from each of the following groups:

- handicapped individuals
- teachers of handicapped children
- special education program administrators
- parents of handicapped children
- State and local educational officials

*Advisory Panel Function
(§ 121a.652)*

The State advisory panel must:

- advise the SEA of unmet educational needs of handicapped children within the State;
- comment publicly on the State annual program plan and related rules and regulations and the procedure for distribution of Part B funds; and
- assist the State in developing and reporting information and evaluations to be used by the U.S. Commissioner of Education in carrying out his duties to evaluate the effectiveness of State efforts and impact of programs.

*Advisory Panel Procedure
(§ 121a.653)*

The panel must meet as often as necessary to conduct its business.

By July 1 of each year, the panel must submit and make public an annual report of its activities and suggestions to the State.

Official minutes must be kept on all meetings and made available to the public.

Interpreters and other necessary services must be provided at panel meetings for the benefit of members and participants. (The State may pay for these services.)

The panel must serve without compensation, but the State must reimburse panel members for reasonable and necessary expenses for attending meetings and performing duties (e.g., travel and lodging expenses).

**G. Allocation of
Funds and Annual Report
of Children Served**

NOTE: Subpart G covers regulations governing:

- the allocation of P.L. 94-142 funds to the State in accordance with the State entitlement formula (§ 121a.700-121a.710)
- the State's Annual Report of the number of handicapped children ages 3-21 served in the State for allocation purposes (§ 121a.750-121a.754)

For purposes of this document, the provisions for Subpart G have not been highlighted.

Other Things To Know About Regulations Implementing P.L. 94-142.

1. Relationship Between Regulations Implementing P.L. 94-142 and Regulations Under Section 504 of the Rehabilitation Act of 1973.

The regulations under section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84; May 4, 1977, published at 42 FR 22675, deal with nondiscrimination on the basis of handicap and basically require that recipients of federal funds provide equal opportunities to handicapped persons. Subpart D of the Section 504 regulations ("Preschool, Elementary, and Secondary Education") contains requirements very similar to those in Regulations Implementing P.L. 94-142.

However, Section 504 adds a whole new dimension to the federal requirements and enforcement of education for handicapped children. If a State or LEA does not apply for federal funds under P.L. 94-142, it would not have to meet the requirements such as submitting annual program plans or developing IEPs for each handicapped child. However, since section 504 prohibits discrimination against the handicapped, any state providing education to all normal children but not to all handicapped children would be violating section 504, and HEW's Office for Civil Rights (OCR), the enforcement agency, could cut off all federal funds to the State. Therefore, regardless of a State's decision not to take funds under P.L. 94-142, it still faces much the same requirements under Section 504.

2. Availability of Incentive Grants to States for Preschool Handicapped Children

Federal assistance to States is available under P.L. 94-142 for providing special education and related service to handicapped children ages 3-5. A State is eligible to receive a grant if its annual program plan has been ap-

proved by the U.S. Commissioner of Education and if special education and related services are being provided to any handicapped child ages 3-5. Each handicapped child ages 3-5 who is counted as being served will generate a \$300 entitlement.

3. Sanctions Imposed for Noncompliance with P.L. 94-142

Funds received under P.L. 94-142 will be cut off to a given State by the U.S. Commissioner of Education if that agency is in substantial noncompliance with any major requirement of the law. In such an instance, the Commissioner must also cut off funds for programs specially designed for handicapped children under:

- Part A of Title I of the Elementary and Secondary Education Act
- Title III of the Elementary and Secondary Education Act
- The Vocational Education Act

The U.S. Commissioner may also order the State to cut off flow-through funds to a given School District if it is found to be in noncompliance with the law.

Ballard, Joseph, Jean N. Nazzaro, and Frederick J. Weintraub. P.L. 94-142, The Education for All Handicapped Children Act of 1975. Reston, VA: The Council for Exceptional Children, 1976.

A multimedia packet designed for educators and parents. The packet includes three captioned filmstrips, three audio cassettes, a copy of P.L. 94-142, a question and answer booklet, and a printed copy of each filmstrip script with correlations to the section of the public law it covers and references to additional sources of information. The filmstrip provides an introduction and overview of P.L. 94-142; an overview of the roles and requirements of the State and local educational agencies; and implications for parents and teachers, their roles and responsibilities.

Gallaudet College Alumni Association. P.L. 94-142 and Deaf Children: A Special Issue of the Gallaudet Alumni Newsletter. Washington, D.C.: Alumni Office, Gallaudet College, June 1977.

A layman's introduction to and analysis of P.L. 94-142. Written for parents, it analyzes the requirements of assessment, developing IEPs, and the concept of least restrictive environment in terms applicable to all handicapped children and provides information useful to teachers and School Districts on practical applications of the law. Ways of meeting the educational needs of deaf students in regular classroom settings are also discussed.

Hyer, Anna L. "The View of P.L. 94-142 from the Classroom." Volume 7 Instructional Technology and the Education of All Handicapped Children: A Collection of Papers by Seventeen Educators on Some Implications of P.L. 94-142. Columbus, OH: National Center on Educational Media and Materials for the Handicapped, July, 1977.

A discussion of the concerns of classroom teachers in regard to P.L. 94-142, including changes in their roles, teacher reactions to this change, NEA and AFT views of the law, and areas in which teachers need support in order to successfully implement this legislation. These areas are both inservice and preservice training; clearer definitions of least restrictive environment, individualized program, and the nature of parental involvement; reassessment of teacher load requirements; familiarity with support services; and a more adequate program of funding.

"P.L. 94-142 and Teachers." Today's Education. Washington, D.C.: National Education Association, Nov./Dec., 1977.

A brief summary of the implications of P.L. 94-142. The article outlines how P.L. 94-142 will affect classroom teachers, what good effects it will have, what modifications are needed to make it work, and how teachers can work with their local associations to get the best results from P.L. 94-142 and to bring about any necessary changes in this law.

APPENDIX B

SELECTED ANNOTATED REFERENCES PERTINENT TO CLASSROOM TEACHERS AND P.L. 94-142



"Statement of the American Federation of Teachers, AFL-CIO, before the Senate Subcommittee on the Handicapped Regarding Oversight on P.L. 94-142." American Federation of Teachers, July 25, 1977.

A summary of the AFT position as presented to the above group. Their position is that, in order to provide the free and appropriate education mandated in P.L. 94-142, several issues must be considered in developing the implementing regulations. These issues deal with immediate funding of 40% per child rather than a phase-in period, use of only annual goals and long term objectives in the IEP, a period longer than 30 days after the start of the school year to implement the IEP, and expansion of due process to include the possibility of teacher-initiated hearings.

Torres, Scottie (ed.). A Primer on Individualized Education Programs for Handicapped Children. Reston, VA: The Council for Exceptional Children, 1977.

Short articles to serve as a practical guide to the development and implementation of IEPs. The articles are organized in sequential order to provide information on development, implementation, and monitoring of IEPs. Geared to the many questions and the areas of concern to teachers, it includes a sample format of an IEP, examples of teacher inputs to IEP meetings, an explanation to teachers of least restrictive environment, and examples of classroom implementation of IEPs.

Mainstreaming

Birch, Jack W. and Maynard C. Reynolds. Teaching Exceptional Children in All America's Schools—A First Course for Teachers and Principals. Reston, VA: The Council for Exceptional Children, 1977.

A textbook for regular and special education teachers in working as partners to educate handicapped and gifted children. The book covers the procedures of assessment, parent participation, and planning education programs. Each chapter discusses a type of exceptionality, current educational practices, and preferred teaching methods. Current trends and issues are also included. Each chapter can be developed into a training unit with suggestions for teacher learning activities and resources.

Birch, Jack W. Hearing Impaired Children in the Mainstream. Minneapolis, MN: Leadership Training Institute/Special Education, University of Minnesota, 1975.

Discusses aspects of mainstreaming the hearing-impaired student. The introduction gives the state of the art of mainstreaming of all exceptional students. Teachers and all educators are familiarized with the world of the deaf and the terminology of this exceptionality. Also, a brief history of deaf education and the influence of hearing on education is presented. The majority of this book deals with making mainstreaming work and illustrating numerous successful programs for deaf students in the regular class.

Birch, Jack W. Mainstreaming: Educable Mentally Retarded Children in Regular Classes. Reston, VA: The Council for Exceptional Children, 1975.

Descriptions of mainstreaming programs used effectively in six school districts. Directed toward classroom teachers, special educators, school administrators, and inservice trainers, the book includes information on the role of personnel, methods of organization, preparation of facilities, organization of programs, methods of involving parents, and suggestions for inservice training sessions.

Gerheart, B. R. and M. Weishahn. The Handicapped Child in the Regular Classroom. St. Louis, MO: C. V. Mosby Company, 1976.

An answer to the expressed needs of regular classroom teachers regarding what is needed for the handicapped student and how the student may be best helped. Overviews of different exceptionalities are presented along with teaching strategies, services, roles of involved personnel, teacher preparation, and relevant legislation. The book stresses the importance of good personal interaction of regular and special education staffs and shows the influence of a teacher's attitudes toward handicapped students on the level of performance in learning situations of the student. It also discusses the present educational services available for various types of handicapped students and the benefits and liabilities of each type of service. Appendices list resources for captioned films for the deaf, national organizations and services for the handicapped, sources of materials for visually impaired, and a pupil behavior rating scale.

INFOPAC No. 9: Mainstreaming. Washington, D.C.: National Education Association, August 1975.

An information package directed toward NEA leaders to help teachers understand mainstreaming. Included are a collection of articles on mainstreaming, sources for additional information, state law information, and an annotated bibliography.

Jones, Reginald L. and Frank B. Wilderson. Mainstreaming and the Minority Child. Minneapolis, MN: Leadership Training Institute/Special Education, University of Minnesota, 1976.

Articles from a wide range of sources presenting their views on special education of handicapped children from culturally different backgrounds. Experts in the field address relevant teaching strategies, related legislation, and special needs, such as in the area of testing and evaluation.

Jordon, June B. (ed.). Teacher Please Don't Close the Door—The Exceptional Child in the Mainstream. Reston, VA: The Council for Exceptional Children, 1976.

An examination of the roles of the parent, special teacher, regular teacher, diagnostician, principal, and others involved in placing exceptional children. The book emphasizes the use of a team approach in determining the correct placement and describes ways of involving handicapped students in the setting appropriate for them.

Lott, L. A., Jr., B. J. Hudak, and J. A. Scheetz. Strategies and Techniques for Mainstreaming: A Resource Room Handbook. Monroe, MI: Monroe County Intermediate School District, 1975.

A manual for resource room teachers, regular classroom teachers, and administrators for dealing with the implementation of mainstreaming. Included are resource room models, information on types of diagnosis, personnel involved, interview techniques, inservice training, staff relations, individual instruction, and program evaluation. Methods of administering informal tests are provided as well as forms for evaluation of all aspects of the mainstreaming program.

Martin, Glenda J. and Mollie Hoben. Supporting Visually Impaired Students in the Mainstream: The State of the Art. Reston, VA: The Council for Exceptional Children, 1977.

Answers to questions frequently asked by classroom teachers about mainstreaming for the visually impaired. Questions include: How much assistance should be given to the visually impaired? How will he/she function socially? What should the classroom teacher's expectations be? The authors draw on their own experiences as vision teachers as well as on exemplary mainstreaming programs for the visually impaired which have been in existence for ten years or more.

Reynolds, Maynard C. (ed.). Mainstreaming: Origins and Implications. Reston, VA: The Council for Exceptional Children, 1976.

A collection of papers presented at the Dean's Projects Conference, a gathering of 59 Deans of various institutions of higher education who were participating in projects for improvement of preservice teacher training. The topic of mainstreaming was approached from a societal perspective. The papers address such questions as: What are the recent educational developments from which the mainstreaming concept has emerged? Where does education stand now in terms of individualizing? And where does it need to change in order to serve a new student populations which will come with mainstreaming?

Reynolds, Maynard C. and M. D. Davis (eds.). Exceptional Children in Regular Classrooms. Minneapolis, MN: Department of Audio-Visual Extension, University of Minnesota, 1971.

A discussion of the needs of exceptional children in the regular classroom. These articles are designed to answer questions prevalent among teachers and parents. Included are the rationale for mainstreaming, types of assistance the classroom teacher may require, and some models of mainstreaming programs which have been effective.

Watson, Marjorie. Mainstreaming: The Educable Mentally Retarded. Washington, D.C.: National Education Association, 1975.

An overview of the development of classroom instruction for the educable mentally retarded, including background information, planning concepts, and practical applications for all educators. The book includes a chapter explaining the causes and characteristics of mental retardation. Primary focus is placed on the integration of the retarded into the regular classroom with descriptions of systems and activities that have proven effective. Written for all school levels, the final chapter outlines a completely mainstreamed elementary education program for the mentally retarded.

Classroom Activities/
Organization

Aiello, Barbara (ed.). Making It Work: Practical Ideas for Integrating Exceptional Children into Regular Classes. Reston, VA: The Council for Exceptional Children, 1975.

A very useful and practical guidebook for a teacher setting up a resource room. The book addresses such practical issues as scheduling students, making contact with the rest of the faculty, roles of those involved in the mainstreaming process, types and reviews of criterion referenced tests, and models of successful mainstreaming projects.

Bibliography of Secondary Materials for Teaching Handicapped Students. Washington, D.C.: President's Committee on Employment of the Handicapped, Aug./Sept. 1977.

An annotated bibliography of materials dealing with the delivery of special education, vocational education, and industrial arts services to handicapped individuals. Individual items are identified as pertaining to the following areas: vocational education, industrial arts, pre-vocational education, career education, special education, work-study, vocational rehabilitation, evaluation and testing, and miscellaneous.

Champagne, D. W., and R. M. Goldman. Handbook for Managing Individual Learning in the Classroom. Englewood Cliffs, NJ: Educational Technology Publications, 1975.

A consumable workbook for classroom teachers that provides activities which lead to individualization within the classroom. It provides the regular teacher with methods of room arrangement, contracting with students, training students as tutors, recordkeeping, reporting to parents, and evaluating the program. The format allows a teacher to plan as he/she reads this book since forms and charts are provided for use in each step of the development of an individualized program.

Charles, C. M. Individualizing Instruction. St. Louis, MO: C. V. Mosby Company, 1976.

An overview of methods used to individualize classroom instruction. Some of the topics covered are learning centers, diagnostic-prescriptive teaching, and modularized instruction. Ideas for coordinating the programs of the regular and special educators are given as well as tips on scheduling resource time, managing instructional funds, and evaluating programs.

Parent/Teacher Relations

Gordon, Sol. Living Fully: A Guide for Young People with a Handicap, Their Parents, Their Teachers, and Professionals. New York, N.Y.: John Day Company, 1975.

A practical and innovative book on overcoming problems caused by attitudes and behavior toward handicapped persons. It provides practical assistance for handicapped persons and their families in achieving their fullest potential at home, school, work, and in marriage. Valuable to teachers and other professionals in understanding their influence on the emotional and social development of a handicapped person.

Kroth, Roger L. Communicating with Parents of Exceptional Children: Improving Parent-Teacher Relationship. Denver, CO: Love Publishing Company, 1975.

An easy-to-read text on effective parent-teacher interaction, including ways to initiate meetings, get information, and learn from parents without causing stress. Sample case studies and suggested methods for increasing communication are presented. Emphasis is on solving problems with parents and enabling them to reinforce the child's educational program in the out-of-school hours. Good references for the teacher are included throughout the book, including a bibliography of non-technical books on exceptional children.

Southwest Educational Development Laboratory. Working with Parents of Handicapped Children. Reston, VA: The Council for Exceptional Children, 1976.

A manual designed to help teachers understand and work with parents of young children with various disabilities. Numerous methods for involving parents in activities at home and at school are given. Additional resources include forms for parent interviews and a bibliography of additional sources for the teacher to use.